

Calendar No. 610

103D CONGRESS  
2D SESSION

**S. 1822**

[Report No. 103-367]

**A BILL**

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

SEPTEMBER 14 (legislative day, SEPTEMBER 12), 1994

Reported with an amendment

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To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 25), 1994

Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. INOUE, Mr. STEVENS, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. BURNS, Mr. ROBB, Mr. GORTON, Mr. DORGAN, Mr. KERREY, Mr. KERRY, Mr. BOND, Ms. MOSELEY-BRAUN, Mr. AKAKA, Mr. LOTT, Mr. MATHEWS, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 14 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. HOLLINGS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Communications Act  
3 of 1994”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Congress has not passed a broad review of  
7 the Communications Act of 1934 since that Act was  
8 originally passed;

9 (2) Congress must pass comprehensive commu-  
10 nications legislation to promote the development and  
11 growth of the national information superhighway;

12 (3) changes in the telecommunications market-  
13 place have made some of the provisions of the Com-  
14 munications Act of 1934 obsolete, unnecessary, or  
15 inimical to advances in communications technologies  
16 and services;

17 (4) for instance, competition has emerged in  
18 many services that were previously thought to be  
19 natural monopolies, but the Communications Act of  
20 1934 requires all carriers to be regulated as if they  
21 were monopolies;

22 (5) as communications markets change, govern-  
23 ment must ensure that the public interest, conven-  
24 ience and necessity is preserved;

25 (6) the public interest requires that universal  
26 telephone service is protected and advanced, that

1 new telecommunications technologies are deployed  
2 rapidly and equitably, and that access by schools,  
3 hospitals, public broadcasters, libraries, other public  
4 entities, community newspapers, and broadcasters in  
5 the smallest markets to advanced telecommuni-  
6 cations services is assisted;

7 (7) access to basic telecommunications services  
8 is fundamental to safety of life and participation in  
9 a democratic society;

10 (8) telecommunications networks make substan-  
11 tial use of public rights of way in real property and  
12 in spectrum frequencies, and carriers that make use  
13 of such public rights of way have an obligation to  
14 provide preferential rates to entities that provide sig-  
15 nificant public benefits;

16 (9) advanced telecommunications services can  
17 enhance the quality of life and promote economic de-  
18 velopment and international competitiveness;

19 (10) telecommunications infrastructure develop-  
20 ment is particularly crucial to the continued eco-  
21 nomic development of rural areas that may lack an  
22 adequate industrial or service base for continued de-  
23 velopment;

24 (11) advancements in the Nation's tele-  
25 communications infrastructure will enhance the pub-

1        lie welfare by helping to speed the delivery of new  
2        services, such as distance learning, remote medical  
3        sensing, and distribution of health information;

4            (12) infrastructure advancement can be assisted  
5        by joint planning and infrastructure sharing by all  
6        carriers providing communications services;

7            (13) increased competition in telecommuni-  
8        cations services can, if subject to appropriate safe-  
9        guards, encourage infrastructure development and  
10       have beneficial effects on the price, universal avail-  
11       ability, variety, and quality of telecommunications  
12       services;

13           (14) the emergence of competition in tele-  
14       communications services has already contributed,  
15       and can be expected to continue contributing, to the  
16       modernization of the infrastructure;

17           (15) competition in the long distance industry  
18       and the communications equipment market has  
19       brought about lower prices and higher quality serv-  
20       ices;

21           (16) competition for local communications serv-  
22       ices has already begun to benefit the public; com-  
23       petitive access providers have deployed thousands of  
24       miles of optical fiber in their local networks; local ex-  
25       change carriers have been prompted by competition

1 to accelerate the installation of optical fiber in their  
2 own networks;

3 ~~(17)~~ electric utilities, satellite carriers, and oth-  
4 ers are prepared to enter the local telephone market  
5 over the next few years;

6 ~~(18)~~ a diversity of telecommunications carriers  
7 enhances network reliability by providing redundant  
8 capacity, thereby lessening the impact of any net-  
9 work failure;

10 ~~(19)~~ competition must proceed under rules that  
11 protect consumers and are fair to all telecommuni-  
12 cations carriers;

13 ~~(20)~~ all telecommunications carriers, including  
14 competitors to the telephone companies, should con-  
15 tribute to universal service and should make their  
16 networks available for interconnection by others;

17 ~~(21)~~ removal of all State and local barriers to  
18 entry into the telecommunications services market  
19 and provision of national standards for interconnec-  
20 tion are warranted after mechanisms to protect uni-  
21 versal service and rules are established to ensure  
22 that competition develops fairly;

23 ~~(22)~~ increasing the availability of interconnec-  
24 tion and interoperability among the facilities of tele-

1       communications carriers will help stimulate the de-  
2       velopment of fair competition among providers;

3       ~~(23)~~ the portability of telecommunications num-  
4       bers will eliminate a significant advantage held by  
5       traditional telephone companies over competitors in  
6       the provision of telecommunications services;

7       ~~(24)~~ restrictions on resale and sharing of tele-  
8       communications networks retard the growth of com-  
9       petition and restrict the diversity of services avail-  
10      able to the public;

11      ~~(25)~~ additional regulatory measures are needed  
12      to allow consumers in rural markets and non-  
13      competitive markets the opportunity to benefit from  
14      high-quality telecommunications capabilities;

15      ~~(26)~~ regulatory flexibility for existing providers  
16      of telephone exchange service is necessary to allow  
17      them to respond to competition;

18      ~~(27)~~ the Federal Communications Commission  
19      (hereinafter referred to as the “Commission”) and  
20      the States must have the flexibility to adjust their  
21      regulations to the market power of each provider of  
22      telecommunications services;

23      ~~(28)~~ the Commission should take steps to en-  
24      sure network reliability and the development of net-  
25      work standards;

1           ~~(29)~~ access to switched, digital telecommuni-  
2           cations service for all segments of the population  
3           promotes the core First Amendment goal of diverse  
4           information sources by enabling individuals and or-  
5           ganizations alike to publish and otherwise make in-  
6           formation available in electronic form;

7           ~~(30)~~ the national welfare will be enhanced if  
8           community newspapers and broadcasters in the  
9           smallest markets are provided ease of entry into the  
10          operation of information services disseminated  
11          through electronic means primarily to customers in  
12          the localities served by such newspapers and broad-  
13          casters at reasonable, nondiscriminatory rates to  
14          such newspapers;

15          ~~(31)~~ a clear national mandate is needed for full  
16          participation in access to telecommunications net-  
17          works and services by individuals with disabilities;

18          ~~(32)~~ the obligations of telecommunications ear-  
19          riers includes the duty to furnish telecommuni-  
20          cations services which are designed to be fully acces-  
21          sible to individuals with disabilities in accordance  
22          with such standards as the Commission may pre-  
23          scribe;

24          ~~(33)~~ permitting the Bell operating companies to  
25          enter the manufacturing market will stimulate great-



1 er research and development, create more jobs, and  
2 enhance our international competitiveness;

3 (34) the Bell operating companies should be  
4 permitted to provide long distance service for cable  
5 television and for cellular hands off immediately be-  
6 cause there is little harm, if any, that such entry  
7 could cause the public;

8 (35) the Bell operating companies should not be  
9 permitted to enter the market for other long dis-  
10 tance services until they have eliminated the barriers  
11 to competition and interconnection and until the Bell  
12 operating company faces competition for local tele-  
13 phone service;

14 (36) safeguards are necessary to ensure that  
15 the Bell operating companies do not abuse their  
16 market power over local telephone service to dis-  
17 criminate against competitors in the markets for  
18 electronic publishing, alarm, and other information  
19 services;

20 (37) amending the legal barriers to the provi-  
21 sion of video programming by telephone companies  
22 in their service areas will encourage competition to  
23 existing cable television service providers and en-  
24 courage telephone companies to upgrade their tele-  
25 communications facilities to enable them to deliver

1 video programming, as long as telephone companies  
 2 are prohibited from buying or combining with exist-  
 3 ing cable companies in their telephone service areas;  
 4 ~~(38)~~ as communications technologies and serv-  
 5 ices proliferate, consumers must be given the right  
 6 to control information concerning their use of those  
 7 technologies and services; and

8 ~~(39)~~ as competition in the media increases, the  
 9 Commission should reexamine the need for national  
 10 and local ownership limits on broadcast stations,  
 11 consistent with the need to maintain diversity of in-  
 12 formation sources.

13 **SEC. 3. EFFECT ON OTHER LAW.**

14 ~~(a)~~ ANTITRUST LAWS.—Nothing in this Act shall be  
 15 construed to modify, impair, or supersede the applicability  
 16 of any antitrust law.

17 ~~(b)~~ FEDERAL, STATE, AND LOCAL LAW.—(1) Except  
 18 as provided in paragraph ~~(2)~~, this Act shall not be con-  
 19 strued to modify, impair, or supersede Federal, State, or  
 20 local law unless expressly so provided in this Act.

21 ~~(2)~~ This Act shall supersede State and local law to  
 22 the extent that such law would impair or prevent the oper-  
 23 ation of this Act.

1                   **TITLE I—PROTECTION AND**  
2                   **ADVANCEMENT OF UNIVERSAL SERVICE**

3                   **SEC. 101. NATIONAL POLICY GOALS.**

4                   Section 1 of the Communications Act of 1934 (47  
5 U.S.C. 151) is amended by inserting “(a)” immediately  
6 before “For the purpose of” and by adding at the end  
7 the following new subsection:

8                   “(b) the primary objective of United States national  
9 and international communications policy shall be to pro-  
10 tect the public interest. The goals of United States na-  
11 tional and international communications policy shall in-  
12 clude the following:

13                   “(1) To ensure that every person has access to  
14 basic telecommunications at reasonable charges.

15                   “(2) To promote the development and wide-  
16 spread availability of new technologies.

17                   “(3) To ensure that consumers have access to  
18 diverse sources of information.

19                   “(4) To allow each individual the opportunity to  
20 contribute to the free flow of ideas and information  
21 through telecommunications services.

22                   “(5) To maximize the contribution of commu-  
23 nications and information technologies and services  
24 to economic welfare and quality of life.

1           ~~“(6) To protect each individual’s right to con-~~  
 2           ~~trol the use of information concerning his or her use~~  
 3           ~~of telecommunications services.~~

4           ~~“(7) To promote democracy.”.~~

5   **~~SEC. 102. UNIVERSAL SERVICE PROTECTION AND AD-~~**  
 6           **~~VANCEMENT.~~**

7           ~~(a) IN GENERAL.—~~Title II of the Communications  
 8   Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding  
 9   immediately after section 201 the following new section:  
 10   **~~“SEC. 201A. UNIVERSAL SERVICE PROTECTION AND AD-~~**  
 11           **~~VANCEMENT.~~**

12          ~~“(a) DUTY TO CONTRIBUTE.—~~It shall be the duty of  
 13   every common carrier engaged in intrastate, interstate, or  
 14   foreign communication by wire or radio to contribute to  
 15   the preservation and advancement of universal service.  
 16   Such contributions can include monetary payment, certain  
 17   service obligations, in-kind payment, or other forms of  
 18   contribution as determined by the Commission and any  
 19   State as set forth in subsections (b) and (c).

20          ~~“(b) RESPONSIBILITIES OF THE COMMISSION.—(1)~~  
 21   Within one year after the date of enactment of this sec-  
 22   tion, the Commission, after receiving comment from the  
 23   States, shall set forth minimum guidelines for the defini-  
 24   tion of universal service. Such guidelines shall ensure  
 25   that—

1           ~~“(A) universal service includes no less than~~  
2           ~~voice grade telephone exchange services at a charge~~  
3           ~~that includes no more than a reasonable share of the~~  
4           ~~joint and common costs of facilities used to provide~~  
5           ~~such services; and~~

6           ~~“(B) any other service that utilizes such facili-~~  
7           ~~ties shall bear a reasonable share of such costs.~~

8           ~~The Commission shall periodically revise such guidelines.~~

9           ~~“(2) Within two years after the date of enactment~~  
10          ~~of this section, the Commission shall prescribe and imple-~~  
11          ~~ment regulations to provide that a charge be collected, or~~  
12          ~~other action be taken, to ensure that providers of inter-~~  
13          ~~state telecommunications make a contribution to the pro-~~  
14          ~~tection and advancement of universal service on a competi-~~  
15          ~~tively neutral basis. Any funds contributed under this sec-~~  
16          ~~tion shall be distributed to each State.~~

17          ~~“(c) PRIMARY RESPONSIBILITY.—(1) The Commis-~~  
18          ~~sion shall delegate to each State the primary responsibility~~  
19          ~~for defining universal service and ensuring that universal~~  
20          ~~service goals are met. Each State may impose a non-~~  
21          ~~discriminatory charge on intrastate telecommunications,~~  
22          ~~or take other action, as the State finds necessary to pro-~~  
23          ~~tect and advance universal service.~~

24          ~~“(2) In considering methods of protecting and ad-~~  
25          ~~vancing universal service, the State may consider assisting~~

1 directly telecommunications carriers, assisting directly in-  
 2 dividuals and entities who cannot afford the cost of certain  
 3 telecommunications services, assisting directly individuals  
 4 or entities in purchasing or leasing equipment or program-  
 5 ming, allowing carriers to compete for the right to obtain  
 6 funding in exchange for providing certain services, and  
 7 other options. To the extent that a State establishes a  
 8 fund to support universal service, all provider of tele-  
 9 communications services shall be eligible to receive pay-  
 10 ment from such fund.

11 “(3) If a State has not implemented procedures to  
 12 carry out the objectives of paragraphs (1) and (2) within  
 13 two years after the date of enactment of this section, or  
 14 at any time thereafter fails to meet the objectives of such  
 15 paragraphs, the Commission shall assume the primary re-  
 16 sponsibility to ensure that those objectives are met.”

17 (b) CONFORMING AMENDMENT.—Section  
 18 332(c)(1)(A) of the Communications Act of 1934 (47  
 19 U.S.C. 332(c)(1)(A)) is amended by inserting “201A,”  
 20 immediately after “section 201,”.

21 **SEC. 103. PUBLIC ACCESS.**

22 (a) AMENDMENT.—Section 202 of the Communica-  
 23 tions Act of 1934 (47 U.S.C. 202) is amended by adding  
 24 at the end the following new subsection:

1       ~~“(d)(1) Notwithstanding subsections (a) through (c),~~  
 2     ~~it shall be the duty of all telecommunications carriers that~~  
 3     ~~use public rights of way to permit educational institutions,~~  
 4     ~~health-care institutions, local and State governments, pub-~~  
 5     ~~lie broadcast stations, public libraries, other public enti-~~  
 6     ~~ties, community newspapers, and broadcasters in the~~  
 7     ~~smallest markets to obtain access to intrastate and inter-~~  
 8     ~~state services provided by such carriers at preferential~~  
 9     ~~rates. Entities that obtain services under this provision~~  
 10    ~~may not resell such services, except to other entities that~~  
 11    ~~are eligible for preferential rates under this subsection.~~

12       ~~“(2) Within one year after the date of enactment of~~  
 13     ~~this subsection, the Commission shall prescribe regulations~~  
 14     ~~to enforce the provisions of this subsection.”.~~

15       ~~(b) RULEMAKING ON ADVANCED TELECOMMUNI-~~  
 16     ~~CATIONS SERVICES.—The Commission shall commence a~~  
 17     ~~rulemaking proceeding for the purpose of prescribing reg-~~  
 18     ~~ulations that—~~

19             ~~(1) enhance, to the extent feasible, the availabil-~~  
 20       ~~ity of advanced telecommunications services to all~~  
 21       ~~public elementary and secondary school classrooms,~~  
 22       ~~health care institutions, and libraries; and~~

23             ~~(2) ensure that appropriate functional require-~~  
 24       ~~ments or performance standards, or both, including~~  
 25       ~~interoperability standards, are established for tele-~~

1       communications arrangements that interconnect  
2       educational institutions, health care institutions, and  
3       libraries with the public switched network.

4       **TITLE II—TELECOMMUNICATIONS**  
5       **INVESTMENT**

6       **SEC. 201. INFRASTRUCTURE INVESTMENT.**

7       Title II of the Communications Act of 1934 (47  
8       U.S.C. 201 et seq.), as amended by this Act, is further  
9       amended by adding at the end the following new section:

10      ~~“SEC. 229. INFRASTRUCTURE INVESTMENT.~~

11      ~~“(a) RURAL MARKETS AND NONCOMPETITIVE MAR-~~  
12      ~~KETS.—If State regulatory authorities fail to achieve the~~  
13      ~~goal of ensuring that telecommunications carriers provide~~  
14      ~~consumers in rural markets and noncompetitive markets~~  
15      ~~with access to high quality, interoperable telecommuni-~~  
16      ~~cations network facilities and capabilities which—~~

17             ~~“(1) provide subscribers with sufficient inter-~~  
18             ~~active bi-directional network capacity to allow access~~  
19             ~~to information services that provide a combination of~~  
20             ~~voice, data, image, and video; and~~

21             ~~“(2) are widely available at reasonable non-~~  
22             ~~discriminatory rates that are based on reasonably~~  
23             ~~identifiable costs of providing such services,~~  
24      then the Commission may take any action necessary to  
25      achieve that goal.



1       ~~“(b) FULL EFFECTUATION.—The Commission shall~~  
 2       ~~have the authority to preempt any State or local statute~~  
 3       ~~or regulation, or other State or local legal requirement,~~  
 4       ~~that prevents the full effectuation of the goal embodied~~  
 5       ~~in subsection (a).~~

6       ~~“(c) STATE REGULATORY INCENTIVES.—The States~~  
 7       ~~are encouraged to implement regulatory incentives to pro-~~  
 8       ~~mote the development of high quality telecommunications~~  
 9       ~~network facilities and capabilities. If regulatory incentives~~  
 10       ~~fail to result in the deployment of high quality tele-~~  
 11       ~~communications network facilities and capabilities in rural~~  
 12       ~~markets and noncompetitive markets, the States may~~  
 13       ~~adopt other methods to ensure that the goal of subsection~~  
 14       ~~(a) is achieved.~~

15       ~~“(d) NETWORK STANDARDS AND PLANNING.—~~

16               ~~“(1) NETWORK STANDARDS.—~~

17                       ~~“(A) INTERCONNECTION AND INTEROPER-~~  
 18                       ~~ABILITY STANDARDS.—The Commission shall~~  
 19                       ~~encourage telecommunications carriers and tele-~~  
 20                       ~~communications equipment manufacturers to~~  
 21                       ~~develop standards to ensure interconnection and~~  
 22                       ~~interoperability of telecommunications net-~~  
 23                       ~~works.~~

24                       ~~“(B) INDUSTRY ASSISTANCE.—The Com-~~  
 25                       ~~mission shall, when necessary, establish dead-~~

1 lines, create incentives, or use other mecha-  
2 nisms to assist the industry to develop and im-  
3 plement such standards.

4 “(C) COMMISSION AUTHORITY TO ESTAB-  
5 LISH STANDARDS.—The Commission may es-  
6 tablish standards when industry participants  
7 fail to reach agreement.

8 “(2) NETWORK PLANNING.—

9 “(A) REGULATIONS ON JOINT COORDI-  
10 NATED ACTION.—The Commission shall pre-  
11 scribe regulations that permit joint coordinated  
12 network planning, design, and cooperative im-  
13 plementation among all telecommunications car-  
14 riers in the provision of public switched network  
15 infrastructure and services.

16 “(B) PROCEDURES.—The Commission  
17 shall prescribe regulations establishing proce-  
18 dures to ensure that—

19 “(i) telecommunications carriers shall  
20 make available timely information to other  
21 such carriers and information service pro-  
22 viders in the same geographic area about  
23 the deployment of telecommunications  
24 equipment, including software integral to  
25 such telecommunications equipment, in-

cluding upgrades, that will affect a telecommunications carrier's or information service provider's ability to interconnect or interoperate in the same geographic area;

“(ii) telecommunications carriers shall not be required to share information required under clause (i) with anyone, including carriers with whom they directly compete, except as may be necessary to meet the interconnection and interoperability requirements set forth in this paragraph; and

“(iii) the recipient of any information described in clause (i) shall use it only for its own interconnection and interoperability.

~~“(3) INFRASTRUCTURE SHARING ARRANGEMENTS BETWEEN OR AMONG TELECOMMUNICATIONS CARRIERS.—~~

~~“(A) REGULATIONS REQUIRED.—The Commission shall prescribe regulations that require a local exchange carrier to share public switched network infrastructure and function with requesting telecommunications carriers~~

1        lacking economies of scale or scope, as defined  
2        in subparagraph (B).

3        ~~“(B) DEFINITION.—~~For the purposes of  
4        this paragraph, the term ‘telecommunications  
5        carrier lacking economies of scale or scope’  
6        means any telecommunications carrier which  
7        serves a geographic area for which it lacks  
8        economies of scale or scope for the particular  
9        required network function.

10       ~~“(C) CONTENTS OF REGULATIONS.—~~The  
11       regulations governing such sharing between  
12       local exchange carriers and telecommunications  
13       carriers shall—

14       ~~“(i) promote economically efficient de-~~  
15       ~~cisionmaking by local exchange carriers~~  
16       ~~and telecommunications carriers lacking~~  
17       ~~economies of scale or scope;~~

18       ~~“(ii) not require any local exchange~~  
19       ~~carrier or telecommunications carrier lack-~~  
20       ~~ing economies of scale or scope to make~~  
21       ~~any decision that is uneconomic or adverse~~  
22       ~~to the public interest;~~

23       ~~“(iii) permit, but not require, joint~~  
24       ~~ownership and operation of public switched~~  
25       ~~network infrastructure and services by~~

1 local exchange carriers and telecommuni-  
2 cations carriers lacking economies of scale  
3 or scope;

4 “(iv) ensure that fair and reasonable  
5 terms and conditions for and in connection  
6 with the business arrangement described in  
7 this paragraph are determined by local ex-  
8 change carriers and telecommunications  
9 carriers lacking economies of scale or scope  
10 in accordance with general guidelines con-  
11 tained in the regulations prescribed pursu-  
12 ant to this paragraph:

13 “(v) establish conditions that promote  
14 cooperation between local exchange carriers  
15 and telecommunications carriers lacking  
16 economies of scale or scope; and

17 “(vi) ensure that all regulation rights  
18 and obligations for and in connection with  
19 the business arrangements described in  
20 this paragraph shall be determined exclu-  
21 sively in accordance with the regulations  
22 prescribed pursuant to his paragraph.

23 “(4) ~~DISABILITY ACCESS.~~—The Commission  
24 and the States shall ensure that advances in network  
25 capabilities and telecommunications service deployed

1 by telecommunications carriers are designed to be ac-  
 2 cessible to individuals with disabilities.

3 ~~“(e) ANNUAL SURVEY.—The Commission shall pub-~~  
 4 ~~lish annually a survey of the deployment of technologies~~  
 5 ~~on a State-by-State basis.~~

6 ~~“(f) COST ALLOCATION REGULATIONS.—The Com-~~  
 7 ~~mission shall develop regulations, consistent with the need~~  
 8 ~~to protect universal service to allocate a local exchange~~  
 9 ~~carrier’s costs of deploying of broadband telecommuni-~~  
 10 ~~cations facilities between local exchange service and com-~~  
 11 ~~petitive services.”.~~

## 12 **~~TITLE III—REGULATORY REFORM~~**

### 13 **~~SEC. 301. DEFINITIONS.~~**

14 Section 3 of the Communications Act of 1934 (49  
 15 U.S.C. 153) is amended by adding at the end the following  
 16 new subsections:

17 ~~“(hh) ‘Local exchange carrier’ means a provider of~~  
 18 ~~telephone exchange service that the Commission deter-~~  
 19 ~~mines that market power.~~

20 ~~“(ii) ‘Telecommunications’ means the transmission,~~  
 21 ~~between or among points specified by the user, or informa-~~  
 22 ~~tion of the user’s choosing, without change in the reform~~  
 23 ~~or content of the information as sent and received, by~~  
 24 ~~means of electromagnetic transmission, with or without~~  
 25 ~~benefit of any closed transmission medium, including all~~

1 instrumentalities facilities, apparatus, and services (in-  
2 cluding the receipt, switching, and delivery of such infor-  
3 mation) essential to such transmission.

4 “(jj) ‘Telecommunications service’ means the offering  
5 for profit to the public or to such classes and eligible users  
6 as to be effectively available to a substantial portion of  
7 the public of—

8 “(1) telecommunications facilities that (A) are  
9 owned or controlled by a provider of telephone ex-  
10 change service or (B) interconnect with the network  
11 of a provider of telephone exchange service; or

12 “(2) telecommunications by means of such tele-  
13 communications facilities.

14 Such term does not include information services.

15 “(kk) ‘Telecommunications carrier’ means any pro-  
16 vider of telecommunications services, except that such  
17 term does not include hotels, motels, hospitals, and other  
18 aggregators of telecommunications services as defined in  
19 section 226.

20 “(ll) ‘Telecommunications number portability’ means  
21 the ability of users of telecommunications services to re-  
22 tain existing telecommunications numbers without impair-  
23 ment of quality, reliability, or convenience when switching  
24 from one telecommunications carrier to another.

1       “(mm) ‘Information service’ means the offering of  
 2 services over common carrier transmission facilities which  
 3 employ computer processing applications that act on the  
 4 format, content, code, protocol or similar aspects of the  
 5 subscriber’s transmitted information, provide the sub-  
 6 scriber additional, different, or restructured information,  
 7 or involve subscriber interaction with stored information.

8       “(nn) ‘Bell operating company’ means any of the  
 9 companies listed in appendix A of the Modification of  
 10 Final Judgment, and includes any successor or assign of  
 11 any such company, but does not include any affiliate of  
 12 any such company.

13       “(oo) ‘Modification of Final Judgment’ means the de-  
 14 cree entered August 24, 1982, in United States v. Western  
 15 Electric, Civil Action No. 82-0192 (United States District  
 16 Court, District of Columbia).”.

17 **SEC. 302. REGULATORY REFORM.**

18       Title II of the Communications Act of 1934 (47  
 19 U.S.C. 201 et seq.), as amended by this Act, is further  
 20 amended by adding at the end the following new section:

21 **“SEC. 230. TELECOMMUNICATIONS COMPETITION.**

22       “(a) REMOVAL OF BARRIERS TO ENTRY.—Subject to  
 23 the provisions of section 301 of this Act, at such time as  
 24 the regulations required by section 201A of this Act have  
 25 been implemented, or 2 years after the date of enactment



1 of this section, whichever is earlier, no State or local stat-  
 2 ute or regulation, or other State or local legal requirement,  
 3 shall prohibit or have the effect of prohibiting the ability  
 4 of any entity to provide interstate or intrastate tele-  
 5 communications services. No State or local governmental  
 6 entity may unreasonably discriminate among tele-  
 7 communications carriers.

8       “(b) PROVISION OF TELECOMMUNICATIONS SERV-  
 9 ICES BY OTHER UTILITIES.—Notwithstanding any other  
 10 provision of law and subject to the regulatory safeguards  
 11 imposed by an appropriate regulatory agency, an electric,  
 12 gas, water, or steam utility may provide telecommuni-  
 13 cations services.

14       “(c) REGULATORY AUTHORITY.—Nothing in this sec-  
 15 tion shall affect the ability of State or local officials to  
 16 impose, on a competitively neutral basis, requirements  
 17 necessary to preserve and advance universal service, pro-  
 18 tect the public safety and welfare, ensure the continued  
 19 quality of telecommunications services, and safeguard the  
 20 rights of consumers.

21       “(d) OBLIGATIONS OF TELECOMMUNICATIONS CAR-  
 22 RIERS.—To the extent that they provide telecommuni-  
 23 cations services, telecommunications carriers shall be  
 24 deemed common carriers under this Act. The Commission  
 25 shall prescribe regulations to require each telecommuni-

1 cations carrier, upon bona fide request, to provide to any  
2 telecommunications equipment manufacturer or any entity  
3 seeking to provide telecommunications services or informa-  
4 tion services, on reasonable terms and conditions—

5       “(1) interconnection to the carrier’s tele-  
6 communications facilities at any technically and eco-  
7 nomically feasible point within the carrier’s network;

8       “(2) nondiscriminatory access to any of the car-  
9 rier’s telecommunications facilities and information  
10 necessary to the transmission and routing of any  
11 telecommunications service or information service  
12 and the interoperability of both carriers’ networks;

13       “(3) nondiscriminatory access, where technically  
14 and economically feasible, to the poles, ducts, con-  
15 duits, and rights of way owned or controlled by the  
16 carrier, and nondiscriminatory rates for such access;

17       “(4) nondiscriminatory access to the network  
18 functions of the carrier’s telecommunications net-  
19 work, which shall be offered on an unbundled basis;  
20 and

21       “(5) telecommunications services and network  
22 functions without any restrictions on the resale or  
23 sharing of those services and functions.

24 The States may prescribe regulations implementing para-  
25 graphs (1) through (5) for intrastate services so long as

1 such regulations are not inconsistent with those prescribed  
 2 by the Commission.

3       ~~“(e) CONSUMER INFORMATION.—As competition for~~  
 4 ~~telecommunications services develops, the Commission and~~  
 5 ~~State regulatory authorities shall take action to ensure~~  
 6 ~~that consumers are given the information necessary to~~  
 7 ~~make informed choices among their telecommunications~~  
 8 ~~alternatives.~~

9       ~~“(f) TELECOMMUNICATIONS NUMBER PORT-~~  
 10 ~~ABILITY.—The Commission shall prescribe regulations to~~  
 11 ~~ensure that—~~

12           ~~“(1) telecommunications number portability~~  
 13 ~~shall be available, upon request, as soon as tech-~~  
 14 ~~nically feasible; and~~

15           ~~“(2) an impartial entity shall administer tele-~~  
 16 ~~communications numbering and make such numbers~~  
 17 ~~available on an equitable basis.~~

18       ~~“(g) RECIPROCAL COMPENSATION AGREEMENTS.—~~  
 19 ~~Telecommunications carriers shall compensate each other~~  
 20 ~~on a reciprocal and equivalent basis for termination of~~  
 21 ~~telecommunications services on each other’s networks.~~

22       ~~“(h) REGULATORY FLEXIBILITY FOR COMPETITIVE~~  
 23 ~~SERVICES.—~~

24           ~~“(1) REGULATORY FLEXIBILITY.—In the event~~  
 25 ~~that a telecommunications carrier does not have~~

1 market power in any or some of its telecommuni-  
2 cations services in any or some of its geographic  
3 markets, the Commission may streamline any regu-  
4 lation or forbear from applying any provision of this  
5 title (except for sections 201, 201A, 202, and 208)  
6 to such a telecommunications carrier or service only  
7 if the Commission determines that—

8 “(A) full application of such regulation or  
9 provision is unnecessary in order to ensure that  
10 the charges, practices, classifications, or regula-  
11 tions for or in connection with that service are  
12 just and reasonable and are not unjustly or un-  
13 reasonably discriminatory;

14 “(B) full application of such regulation or  
15 provision is unnecessary to achieve the goals of  
16 this Act; and

17 “(C) such action is consistent with the  
18 public interest and the protection of consumers.

19 Any finding by the Commission under section 332  
20 that a provision of title II is inapplicable to a com-  
21 mercial mobile service or a provider of commercial  
22 mobile services shall be deemed also to be a deter-  
23 mination under this paragraph that the require-  
24 ments of subparagraphs (A), (B), and (C) of this  
25 paragraph are satisfied.

1           “(2) PRICING FLEXIBILITY.—The Commission  
 2           shall and the States are encouraged to permit tele-  
 3           communications carriers to have pricing flexibility in  
 4           service or geographic markets that are found to be  
 5           competitive. In implementing this subsection, the  
 6           Commission and the States shall ensure that rates  
 7           for basic telephone service and for services that are  
 8           not competitive remain just and reasonable and that  
 9           universal service is preserved and advanced.

10          “(i) RULES FOR FOREIGN OWNERSHIP.—The provi-  
 11          sions of section 310(b) shall not apply to any lawful for-  
 12          eign ownership in a telecommunications carrier prior to  
 13          February 1, 1994, if that carrier was not regulated as a  
 14          common carrier prior to the date of enactment of this sec-  
 15          tion and is deemed to be a common carrier under this  
 16          Act.”.

17       **SEC. 303. IMPLEMENTING REGULATIONS.**

18          The Commission shall, within 12 months after the  
 19          date of enactment of this Act, issue regulations to imple-  
 20          ment this title. Such regulations shall take effect within  
 21          6 months after their issuance, except that the Commission  
 22          may extend such effective date for up to 24 additional  
 23          months for any small carrier providing telecommuni-  
 24          cations service in rural areas, upon a showing by the car-

1 rier that compliance would not be technically and economi-  
 2 cally feasible without additional time.

3 **TITLE IV—AUTHORIZED ACTIVITIES OF**  
 4 **BELL OPERATING COMPANIES**

5 **Subtitle A—Telecommunications Equipment**  
 6 **Research and Manufacturing Competition**

7 **SEC. 401. SHORT TITLE.**

8 This subtitle may be cited as the “Telecommuni-  
 9 cations Equipment Research and Manufacturing Competi-  
 10 tion Act of 1994”.

11 **SEC. 402. FINDINGS.**

12 The Congress finds that the continued economic  
 13 growth and the international competitiveness of American  
 14 industry would be assisted by permitting the Bell operat-  
 15 ing companies, through their affiliates, to manufacture  
 16 (including design, development, and fabrication) tele-  
 17 communications equipment and customer premises equip-  
 18 ment, and to engage in research with respect to such  
 19 equipment.

20 **SEC. 403. AMENDMENT TO COMMUNICATIONS ACT OF 1934.**

21 Title II of the Communications Act of 1934 (47  
 22 U.S.C. 201 et seq.), as amended by this Act, is further  
 23 amended by adding at the end the following new section:

1 **~~“SEC. 231. REGULATION OF MANUFACTURING BY BELL OP-~~**  
 2 **~~ERATING COMPANIES.~~**

3 ~~“(a) AUTHORIZATION.—Subject to the requirements~~  
 4 ~~of this section and the regulations prescribed thereunder,~~  
 5 ~~a Bell operating company, through an affiliate of that~~  
 6 ~~company, notwithstanding any restrictions or obligation~~  
 7 ~~imposed before the date of enactment of this section pur-~~  
 8 ~~suant to the Modification of Final Judgment on the lines~~  
 9 ~~of business in which a Bell operating company may en-~~  
 10 ~~gage, may manufacture and provide telecommunications~~  
 11 ~~equipment and manufacture customer premises equip-~~  
 12 ~~ment, except that neither a Bell operating company nor~~  
 13 ~~any of its affiliates may engage in such manufacturing in~~  
 14 ~~conjunction with a Bell operating company not so affili-~~  
 15 ~~ated or any of its affiliates.~~

16 ~~“(b) REQUIREMENT FOR SEPARATE AFFILIATE.—~~  
 17 ~~Any manufacturing or provision authorized under sub-~~  
 18 ~~section (a) shall be conducted only through an affiliate~~  
 19 ~~(hereafter in this section referred to as a ‘manufacturing~~  
 20 ~~affiliate’) that is separate from any Bell operating com-~~  
 21 ~~pany.~~

22 ~~“(c) MANUFACTURING REGULATIONS.—The Com-~~  
 23 ~~mission shall prescribe regulations to ensure that—~~

24 ~~“(1)(A) such manufacturing affiliate shall~~  
 25 ~~maintain books, records, and accounts separate from~~  
 26 ~~its affiliated Bell operating company, that identify~~

1 all transactions between the manufacturing affiliate  
2 and its affiliated Bell operating company;

3 ~~“(B) the Commission and the State commis-~~  
4 ~~sions that exercise regulatory authority over any Bell~~  
5 ~~operating company affiliated with such manufactur-~~  
6 ~~ing affiliate shall have access to the books, records,~~  
7 ~~and accounts required to be prepared under sub-~~  
8 ~~paragraph (A); and~~

9 ~~“(C) such manufacturing affiliate shall, even if~~  
10 ~~it is not a publicly held corporation, prepare finan-~~  
11 ~~cial statements which are in compliance with Federal~~  
12 ~~financial reporting requirements for publicly held~~  
13 ~~corporations, file such statements with the Commis-~~  
14 ~~sion and the State commissions that exercise regu-~~  
15 ~~latory authority over any Bell operating company af-~~  
16 ~~filiated with such manufacturing affiliate, and make~~  
17 ~~such statements available for public inspection;~~

18 ~~“(2) consistent with the provisions of this sec-~~  
19 ~~tion, neither a Bell operating company nor any of its~~  
20 ~~nonmanufacturing affiliates shall perform sales, ad-~~  
21 ~~vertising, installation, production, or maintenance~~  
22 ~~operations for a manufacturing affiliate; except that~~  
23 ~~institutional advertising, of a type not related to spe-~~  
24 ~~cific telecommunications equipment, carried out by~~



1 the Bell operating company or its affiliates shall be  
2 permitted if each party pays its pro rata share;

3 “(3)(A) such manufacturing affiliate shall con-  
4 duct all of its manufacturing within the United  
5 States and, except as otherwise provided in this  
6 paragraph, all component parts of customer prem-  
7 ises equipment manufactured by such affiliate, and  
8 all component parts of telecommunications equip-  
9 ment manufactured by such affiliate, shall have been  
10 manufactured within the United States;

11 “(B) such affiliate may use component parts  
12 manufactured outside the United States if—

13 “(i) such affiliate first makes a good faith  
14 effort to obtain equivalent component parts  
15 manufactured within the United States at rea-  
16 sonable prices, terms, and conditions; and

17 “(ii) for the aggregate of telecommuni-  
18 cations equipment and customer premises  
19 equipment manufactured and sold in the United  
20 States by such affiliate in any calendar year,  
21 the cost of the components manufactured out-  
22 side the United States contained in the equip-  
23 ment does not exceed 40 percent of the sales  
24 revenue derived from such equipment;

1           “(C) any such affiliate that uses component  
2           parts manufactured outside the United States in the  
3           manufacture of telecommunications equipment and  
4           customer premises equipment within the United  
5           States shall—

6                   “(i) certify to the Commission that a good  
7           faith effort was made to obtain equivalent parts  
8           manufactured within the United States at rea-  
9           sonable prices, terms, and conditions, which  
10          certification shall be filed on a quarterly basis  
11          with the Commission and list component parts,  
12          by type, manufactured outside the United  
13          States; and

14                   “(ii) certify to the Commission on an an-  
15          nual basis that for the aggregate of tele-  
16          communications equipment and customer prem-  
17          ises equipment manufactured and sold in the  
18          United States by such affiliate in the previous  
19          calendar year, the cost of the components man-  
20          ufactured outside the United States contained  
21          in such equipment did not exceed the percent-  
22          age specified in subparagraph (B)(ii) or ad-  
23          justed in accordance with subparagraph (G);

24                   “(D)(i) if the Commission determines, after re-  
25          viewing the certification required in subparagraph

1       ~~(C)(i)~~, that such affiliate failed to make the good  
2       faith effort required in subparagraph (B)(i) or, after  
3       reviewing the certification required in subparagraph  
4       ~~(C)(ii)~~, that such affiliate has exceeded the percent-  
5       age specified in subparagraph (B)(ii), the Commis-  
6       sion may impose penalties or forfeitures as provided  
7       for in title V of this Act; and

8           ~~“(ii)~~ any supplier claiming to be damaged be-  
9       cause a manufacturing affiliate failed to make the  
10      good faith effort required in subparagraph (B)(i)  
11      may make complaint to the Commission as provided  
12      for in section 208 of this Act, or may bring suit for  
13      the recovery of actual damages for which such sup-  
14      plier claims such affiliate may be liable under the  
15      provisions of this Act in any district court of the  
16      United States of competent jurisdiction;

17          ~~“(E)~~ the Commission, in consultation with the  
18      Secretary of Commerce, shall, on an annual basis,  
19      determine the cost of component parts manufactured  
20      outside the United States contained in all tele-  
21      communications equipment and customer premises  
22      equipment sold in the United States as a percentage  
23      of the revenues from sales of such equipment in the  
24      previous calendar year;

1           ~~“(F) a manufacturing affiliate may use intellec-~~  
2           ~~tual property created outside the United States in~~  
3           ~~the manufacture of telecommunications equipment~~  
4           ~~and customer premises equipment in the United~~  
5           ~~States; and~~

6           ~~“(G) the Commission may not waive or alter~~  
7           ~~the requirements of this subsection, except that the~~  
8           ~~Commission, on an annual basis, shall adjust the~~  
9           ~~percentage specified in subparagraph (B)(ii) to the~~  
10          ~~percentage determined by the Commission, in con-~~  
11          ~~sultation with the Secretary of Commerce, as di-~~  
12          ~~rected in subparagraph (E);~~

13          ~~“(4) no more than 90 percent of the equity of~~  
14          ~~such manufacturing affiliate shall be owned by its~~  
15          ~~affiliated Bell operating company and any affiliates~~  
16          ~~of that Bell operating company;~~

17          ~~“(5) any debt incurred by such manufacturing~~  
18          ~~affiliate may not be issued by its affiliates, and such~~  
19          ~~manufacturing affiliate shall be prohibited from in-~~  
20          ~~curring debt in a manner that would permit a credi-~~  
21          ~~tor, on default, to have recourse to the assets of its~~  
22          ~~affiliated Bell operating company’s telecommuni-~~  
23          ~~cations service business;~~

1           “(6) such manufacturing affiliate shall not be  
2           required to operate separately from the other affili-  
3           ates of its affiliated Bell operating company;

4           “(7) if an affiliate of a Bell operating company  
5           becomes affiliated with a manufacturing entity, such  
6           affiliate shall be treated as a manufacturing affiliate  
7           of that Bell operating company within the meaning  
8           of subsection (b) and shall comply with the require-  
9           ments of this section;

10          “(8) such manufacturing affiliate shall make  
11          available, without discrimination or self-preference  
12          as to price, delivery, terms, or conditions, to all reg-  
13          ulated local telephone exchange carriers, for use with  
14          the public telecommunications network, any tele-  
15          communications equipment, including software inte-  
16          gral to such telecommunications equipment, includ-  
17          ing upgrades, manufactured by such affiliate so long  
18          as each such purchasing carrier—

19               “(A) does not either manufacture tele-  
20               communications equipment, or have a manufac-  
21               turing affiliate which manufactures tele-  
22               communications equipment; or

23               “(B) agrees to make available, to the Bell  
24               operating company affiliated with such manu-  
25               facturing affiliate or any of the requested local

1 exchange telephone carrier affiliates of such  
2 Bell company, any telecommunications equip-  
3 ment, including software integral to such tele-  
4 communications equipment, including upgrades,  
5 manufactured for use with the public tele-  
6 communications network by such purchasing  
7 carrier or by any entity or organization with  
8 which such purchasing carrier is affiliated;

9 “(9)(A) such manufacturing affiliate shall not  
10 discontinue or restrict sales to other regulated local  
11 telephone exchange carriers of any telecommuni-  
12 cations equipment, including software integral to  
13 such telecommunications equipment, including up-  
14 grades, that such affiliate manufactures for sale as  
15 long as there is reasonable demand for the equip-  
16 ment by such carriers; except that such sales may be  
17 discontinued or restricted if such manufacturing af-  
18 filiate demonstrates to the Commission that it is not  
19 making a profit, under a marginal cost standard im-  
20 plemented by the Commission, on the sale of such  
21 equipment;

22 “(B) in reaching a determination as to the ex-  
23 istence of reasonable demand as referred to in sub-  
24 paragraph (A), the Commission shall within 60 days  
25 consider—

1           “(i) whether the continued manufacture of  
2           the equipment will be profitable;

3           “(ii) whether the equipment is functionally  
4           or technologically obsolete;

5           “(iii) whether the components necessary to  
6           manufacture the equipment continue to be  
7           available;

8           “(iv) whether alternatives to the equipment  
9           are available in the market; and

10          “(v) such other factors as the Commission  
11          deems necessary and proper;

12          “(10) Bell operating companies shall, consistent  
13          with the antitrust laws, engage in joint network  
14          planning and design with other regulated local tele-  
15          phone exchange carriers operating in the same area  
16          of interest; except that no participant in such plan-  
17          ning shall delay the introduction of new technology  
18          or the deployment of facilities to provide tele-  
19          communications services, and agreement with such  
20          other carriers shall not be required as a prerequisite  
21          for such introduction or deployment; and

22          “(11) Bell operating companies shall provide, to  
23          other regulated local telephone exchange carriers op-  
24          erating in the same area of interest, timely informa-  
25          tion on the planned deployment of telecommuni-

1        cations equipment, including software integral to  
 2        such telecommunications equipment, including up-  
 3        grades.

4        ~~“(d) TELEPHONE EXCHANGE SERVICE REGULA-~~  
 5        ~~TIONS.—~~

6                ~~“(1) IN GENERAL.—~~The Commission shall pre-  
 7        scribe regulations to require that each Bell operating  
 8        company shall maintain and file with the Commis-  
 9        sion full and complete information with respect to  
 10       the protocols and technical requirements for connec-  
 11       tion with and use of its telephone exchange service  
 12       facilities. Such regulations shall require each such  
 13       Bell company to report promptly to the Commission  
 14       any material changes or planned changes to such  
 15       protocols and requirements, and the schedule for im-  
 16       plementation of such changes or planned changes.

17               ~~“(2) DISCLOSURE RESTRICTION.—~~A Bell oper-  
 18       ating company shall not disclose to any of its affili-  
 19       ates any information required to be filed under para-  
 20       graph (1) unless that information is immediately so  
 21       filed.

22               ~~“(3) COMPETITORS’ ACCESS TO INFORMA-~~  
 23       ~~TION.—~~The Commission may prescribe such addi-  
 24       tional regulations under this subsection as may be  
 25       necessary to ensure that manufacturers in competi-



1       tion with a Bell operating company's manufacturing  
 2       affiliate have ready and equal access to the informa-  
 3       tion required for such competition that such Bell  
 4       company makes available to its manufacturing affili-  
 5       ate.

6       ~~“(e) REQUIREMENTS FOR BELL OPERATING COMPA-~~  
 7 ~~NIES WITH MANUFACTURING AFFILIATE.—~~The Commis-  
 8 sion shall prescribe regulations requiring that any Bell op-  
 9 erating company which has an affiliate that engages in  
 10 any manufacturing authorized by subsection (a) shall—

11           ~~“(1) provide, to other manufacturers of tele-~~  
 12 ~~communications equipment and customer premises~~  
 13 ~~equipment, opportunities to sell such equipment to~~  
 14 ~~such Bell operating company which are comparable~~  
 15 ~~to the opportunities which such company provides to~~  
 16 ~~its affiliates;~~

17           ~~“(2) not subsidize its manufacturing affiliate~~  
 18 ~~with revenues from its regulated telecommunications~~  
 19 ~~services; and~~

20           ~~“(3) only purchase equipment from its manu-~~  
 21 ~~facturing affiliate at the open market price.~~

22       ~~“(f) COLLABORATION WITH OTHER MANUFACTUR-~~  
 23 ~~ERS.—~~A Bell operating company and its affiliates may en-  
 24 gage in close collaboration with any manufacturer of cus-  
 25 tomer premises equipment or telecommunications equip-

1 ment during the design and development of hardware,  
 2 software, or combinations thereof relating to such equip-  
 3 ment, consistent with subsection (e)(2).

4 “(g) ADDITIONAL RULES AND REGULATIONS.—The  
 5 Commission may prescribe such additional rules and regu-  
 6 lations as the Commission determines necessary to carry  
 7 out the provisions of this section.

8 “(h) ADMINISTRATION AND ENFORCEMENT.—

9 “(1) COMMISSION AUTHORITY.—For the pur-  
 10 poses of administering and enforcing the provisions  
 11 of this section and the regulations prescribed there-  
 12 under, the Commission shall have the same author-  
 13 ity, power, and functions with respect to any Bell  
 14 operating company as the Commission has in admin-  
 15 istering and enforcing the provisions of this title  
 16 with respect to any common carrier subject to this  
 17 Act.

18 “(2) CIVIL ACTIONS BY INJURED CARRIERS.—  
 19 Any regulated local telephone exchange carrier in-  
 20 jured by an act or omission of a Bell operating com-  
 21 pany or its manufacturing affiliate which violates the  
 22 requirements of paragraph (8) or (9) of subsection  
 23 (c), or the Commission’s regulations implementing  
 24 such paragraphs, may initiate an action in a district  
 25 court of the United States to recover the full amount

1 of damages sustained in consequence of any such  
2 violation and obtain such orders from the court as  
3 are necessary to terminate existing violations and to  
4 prevent future violations; or such regulated local  
5 telephone exchange carrier may seek relief from the  
6 Commission pursuant to sections 206 through 209.

7 “(i) EFFECTIVE DATES; DEADLINE.—The authority  
8 of the Commission to prescribe regulations to carry out  
9 this section is effective on the date of enactment of this  
10 section. The Commission shall prescribe such regulations  
11 within 180 days after such date of enactment, and the  
12 authority to engage in the manufacturing authorized in  
13 subsection (a) shall not take effect until regulations pre-  
14 scribed by the Commission under subsections (c), (d), and  
15 (e) are in effect.

16 “(j) EFFECT ON PREEXISTING MANUFACTURING AU-  
17 THORITY.—Nothing in this section shall prohibit any Bell  
18 operating company from engaging, directly or through any  
19 affiliate, in any manufacturing activity in which any Bell  
20 operating company or affiliate was authorized to engage  
21 on the date of enactment of this section.

22 “(k) ANNUAL AUDIT.—

23 “(1) IN GENERAL.—A Bell operating company  
24 that manufactures or provides telecommunications  
25 equipment or manufactures customer premises

1 equipment through an affiliate shall obtain and pay  
2 for an annual audit conducted by an independent  
3 auditor selected by and working at the direction of  
4 the State commission of each State in which such  
5 Bell company provides local exchange service, to de-  
6 termine whether such Bell company has complied  
7 with this section and the regulations promulgated  
8 under this section, and particularly whether such  
9 Bell company has complied with the separate ac-  
10 counting requirements under subsection (c)(1).

11 “(2) SUBMISSION OF AUDIT RESULTS.—The  
12 auditor described in paragraph (1) shall submit the  
13 results of such audit to the Commission and to the  
14 State commission of each State in which such Bell  
15 company provides telephone exchange service. Any  
16 party may submit comments on the final audit re-  
17 port.

18 “(3) PROCEDURES APPLICABLE TO AUDIT.—  
19 The audit required under paragraph (1) shall be  
20 conducted in accordance with procedures established  
21 by regulation by the State commission of the State  
22 in which such Bell company provides local exchange  
23 service, including requirements that—

1           “(A) the independent auditors performing  
2           such audits are rotated to ensure their inde-  
3           pendence; and

4           “(B) each audit submitted to the Commis-  
5           sion and to the State commission is certified by  
6           the auditor responsible for conducting the  
7           audit.

8           “(4) COMMISSION REVIEW.—The Commission  
9           shall periodically review and analyze the audits sub-  
10          mitted to it under this subsection, and shall provide  
11          to the Congress every 2 years—

12           “(A) a report of its findings on the compli-  
13           ance of the Bell operating companies with this  
14           section and the regulations promulgated there-  
15           under; and

16           “(B) an analysis of the impact of such reg-  
17           ulations on the affordability of local telephone  
18           exchange service.

19           “(5) ACCESS TO ACCOUNTS AND RECORDS.—  
20          For purposes of conducting audits and reviews  
21          under this subsection, an independent auditor, the  
22          Commission, and the State commission shall have  
23          access to the financial accounts and records of each  
24          Bell operating company and those of its affiliates  
25          (including affiliates described in paragraphs (6) and

1       ~~(7)~~ of subsection ~~(c)~~) necessary to verify trans-  
2       actions conducted with such Bell operating company  
3       that are relevant to the specific activities permitted  
4       under this section and that are necessary to the  
5       State's regulation of telephone rates. Each State  
6       commission shall implement appropriate procedures  
7       to ensure the protection of any proprietary informa-  
8       tion submitted to it under this section.

9       ~~“(1) DEFINITIONS.—As used in this section:~~

10           ~~“(1) The term ‘affiliate’ means any organiza-~~  
11           ~~tion or entity that, directly or indirectly, owns or~~  
12           ~~controls, is owned or controlled by, or is under com-~~  
13           ~~mon ownership with a Bell operating company. Such~~  
14           ~~term includes any organization or entity (A) in~~  
15           ~~which a Bell operating company and any of its affili-~~  
16           ~~ates have an equity interest of greater than 10 per-~~  
17           ~~cent, or a management interest of greater than 10~~  
18           ~~percent, or (B) in which a Bell operating company~~  
19           ~~and any of its affiliates have any other significant fi-~~  
20           ~~nancial interest.~~

21           ~~“(2) The term ‘Bell operating company’ means~~  
22           ~~those companies listed in appendix A of the Modi-~~  
23           ~~fication of Final Judgment, and includes any succes-~~  
24           ~~sor or assign of any such company, but does not in-~~  
25           ~~clude any affiliate of any such company.~~

1           ~~“(3) The term ‘customer premises equipment’~~  
2           ~~means equipment employed on the premises of a~~  
3           ~~person (other than a carrier) to originate, route, or~~  
4           ~~terminate telecommunications.~~

5           ~~“(4) The term ‘manufacturing’ has the same~~  
6           ~~meaning as such term has in the Modification of~~  
7           ~~Final Judgment as interpreted in United States v.~~  
8           ~~Western Electric, Civil Action No. 82-0192 (United~~  
9           ~~States District Court, District of Columbia) (filed~~  
10          ~~December 3, 1987).~~

11          ~~“(5) The term ‘Modification of Final Judg-~~  
12          ~~ment’ means the decree entered August 24, 1982, in~~  
13          ~~United States v. Western Electric, Civil Action No.~~  
14          ~~82-0192 (United States District Court, District of~~  
15          ~~Columbia).~~

16          ~~“(6) The term ‘telecommunications’ means the~~  
17          ~~transmission, between or among points specified by~~  
18          ~~the user, of information of the user’s choosing, with-~~  
19          ~~out change in the form or content of the information~~  
20          ~~as sent and received, by means of an electromagnetic~~  
21          ~~transmission medium, including all instrumentalities,~~  
22          ~~facilities, apparatus, and services (including the col-~~  
23          ~~lection, storage, forwarding, switching, and delivery~~  
24          ~~of such information) essential to such transmission.~~

1           “(7) The term ‘telecommunications equipment’  
 2       means equipment, other than customer premises  
 3       equipment, used by a carrier to provide tele-  
 4       communications services.

5           “(8) The term ‘telecommunications service’  
 6       means the offering for hire of telecommunications  
 7       facilities, or of telecommunications by means of such  
 8       facilities.”.

9       **SEC. 404. INCREASED PENALTY FOR RECORDKEEPING VIO-**  
 10           **LATIONS.**

11       Section 220(d) of the Communications Act of 1934  
 12       (47 U.S.C. 220(d)) is amended by striking “\$6,000” and  
 13       inserting in lieu thereof “\$10,000”.

14       **SEC. 405. APPLICATION OF ANTITRUST LAWS.**

15       Nothing in this subtitle shall be deemed to alter the  
 16       application of Federal and State antitrust laws as inter-  
 17       preted by the respective courts.

18       **Subtitle B—Regulation of Alarm Services and**  
 19           **Electronic Publishing by Bell Operating**  
 20           **Companies**

21       **SEC. 451. REGULATION OF ENTRY INTO ALARM MONITOR-**  
 22           **ING SERVICES.**

23       (a) AMENDMENT.—Title II of the Communications  
 24       Act of 1934 (47 U.S.C. 201 et seq.), as amended by this



1 Act, is further amended by adding at the end the following  
 2 new section:

3 **~~“SEC. 232. REGULATION OF ENTRY INTO ALARM MONITOR-~~**  
 4 **~~ING SERVICES.~~**

5       ~~“(a) IN GENERAL.—Except as provided in subsection~~  
 6 ~~(c), no Bell operating company, or any affiliate of that~~  
 7 ~~company, shall provide alarm monitoring services for the~~  
 8 ~~protection of life, safety, or property. A Bell operating~~  
 9 ~~company may transport alarm monitoring service signals~~  
 10 ~~but on a common carrier basis only.~~

11       ~~“(b) AUTHORITY TO PETITION.—Beginning 5½~~  
 12 ~~years from the date of enactment of this section, a Bell~~  
 13 ~~operating company or any affiliate of that company may~~  
 14 ~~petition the Commission to seek permission to provide~~  
 15 ~~alarm monitoring services for the protection of life, safety,~~  
 16 ~~or property.~~

17       ~~“(c) AUTHORITY TO PERMIT BELL OPERATING COM-~~  
 18 ~~PANIES TO PROVIDE SERVICES.—Beginning 6 years from~~  
 19 ~~the date of enactment of this section, the Commission~~  
 20 ~~shall have the authority to permit a Bell operating com-~~  
 21 ~~pany to provide alarm monitoring services for the protec-~~  
 22 ~~tion of life, safety, or property; except that the Commis-~~  
 23 ~~sion shall not grant such permission until—~~

24               ~~“(1) the Department of Justice finds that there~~  
 25       ~~is no substantial possibility that such Bell company~~

1 or its affiliates could use monopoly power to impede  
2 competition in the market such Bell company seeks  
3 to enter; and

4 “(2) the Commission finds that the provision of  
5 alarm monitoring services by the Bell operating com-  
6 pany is in the public interest and that the Commis-  
7 sion has the capability to effectively enforce any re-  
8 quirements, limitations, or conditions placed upon  
9 the Bell operating company in the provision of alarm  
10 monitoring services for the protection of life, safety,  
11 or property, including the regulations it has pre-  
12 scribed pursuant to subsection (d).

13 “(d) REGULATIONS REQUIRED.—Not later than 6  
14 years after the date of enactment of this section, the Com-  
15 mission shall prescribe regulations—

16 “(1) to establish such requirements, limitations,  
17 or conditions as are (A) necessary and appropriate  
18 in the public interest with respect to the provision of  
19 alarm monitoring services by Bell operating compa-  
20 nies and their affiliates, and (B) effective at such  
21 time as a Bell operating company or any of its affili-  
22 ates is authorized to provide alarm monitoring serv-  
23 ices;

24 “(2) to prohibit Bell operating companies and  
25 their affiliates, at that or any earlier time after the

1 date of enactment of this section, from recording in  
2 any fashion the occurrence or the contents of calls  
3 received by providers of alarm monitoring services  
4 for the purposes of marketing such services on be-  
5 half of the Bell operating company, any of its affili-  
6 ates, or any other entity; and

7 “(3) to establish procedures for the receipt and  
8 review of complaints concerning violations by such  
9 companies of such regulations, or of any other provi-  
10 sion of this Act or the regulations thereunder, that  
11 result in material financial harm to a provider of  
12 alarm monitoring services.

13 “(e) EXPEDITED CONSIDERATION OF COM-  
14 PLAINTS.—The procedures established under subsection  
15 (d)(3) shall ensure that the Commission will make a final  
16 determination with respect to any complaint described in  
17 such subsection within 120 days after receipt of the com-  
18 plaint. If the complaint contains an appropriate showing  
19 that the alleged violation occurred, as determined by the  
20 Commission in accordance with such regulations, the Com-  
21 mission shall, within 60 days after receipt of the com-  
22 plaint, issue a cease and desist order to prevent the Bell  
23 operating company and its affiliates from continuing to  
24 engage in such violation pending such final determination.

1       ~~“(f) REMEDIES.—The Commission may use any rem-~~  
 2       ~~edy available under title V of this Act to terminate and~~  
 3       ~~punish violations described in subsection (d)(2). Such rem-~~  
 4       ~~edies may include, if the Commission determines that such~~  
 5       ~~violation was willful or repeated, ordering the Bell operat-~~  
 6       ~~ing company to cease offering alarm monitoring services.~~

7       ~~“(g) DEFINITIONS.—As used in this section:~~

8           ~~“(1) the term ‘alarm monitoring services’~~  
 9           ~~means services that detect threats to life, safety, or~~  
 10          ~~property, by burglary, fire, vandalism, bodily injury,~~  
 11          ~~or other emergency, through the use of devices that~~  
 12          ~~transmit signals to a central point in a customer’s~~  
 13          ~~residence, place of business, or other fixed premises~~  
 14          ~~which—~~

15           ~~“(A) retransmits such signals to a remote~~  
 16           ~~monitoring center by means of telephone ex-~~  
 17           ~~change service facilities, and~~

18           ~~“(B) serves to alert persons at the mon-~~  
 19           ~~itoring center of the need to inform police, fire,~~  
 20           ~~rescue, or other security or public safety per-~~  
 21           ~~sonnel of the threat at such premises.~~

22       Such term does not include medical monitoring de-  
 23       vices attached to individuals for the automatic sur-  
 24       veillance of ongoing medical conditions.

1           “(2) The term ‘Bell operating company’ has the  
2           meaning given that term in section 233 of this Act.

3           “(3) The term ‘affiliate’ means a person that  
4           (directly or indirectly) owns or controls, is owned or  
5           controlled by, or is under common ownership or con-  
6           trol with, another person. For purposes of this para-  
7           graph, to own refers to owning an equity interest (or  
8           equivalent thereof) of more than 50 percent.”.

9   **SEC. 452. REGULATION OF ELECTRONIC PUBLISHING.**

10          Title II of the Communications Act of 1934 (47  
11   U.S.C. 201 et seq.), as amended by this Act, is further  
12   amended by adding at the end the following new section:

13   **“SEC. 233. REGULATION OF ELECTRONIC PUBLISHING.**

14          “(a) IN GENERAL.—(1) A Bell operating company  
15   and any affiliate shall not engage in the provision of elec-  
16   tronic publishing that is disseminated by means of such  
17   Bell operating company’s or any of its affiliates’ basic tele-  
18   phone service.

19          “(2) Nothing in this section shall prohibit a separated  
20   affiliate or electronic publishing joint venture from engag-  
21   ing in the provision of electronic publishing or any other  
22   lawful service in any area.

23          “(3) Nothing in this section shall prohibit a Bell op-  
24   erating company or affiliate from engaging in the provi-  
25   sion of any lawful service other than electronic publishing

1 in any area or from engaging in the provision of electronic  
2 publishing that is not disseminated by means of such Bell  
3 operating company's or any of its affiliates' basic tele-  
4 phone service.

5       “(b) SEPARATED AFFILIATE OR ELECTRONIC PUB-  
6 LISHING JOINT VENTURE REQUIREMENTS.—A separated  
7 affiliate or electronic publishing joint venture shall—

8               “(1) maintain books, records, and accounts that  
9       are separate from those of the Bell operating com-  
10      pany and from any affiliate and which record in ac-  
11      cordance with generally accepted accounting prin-  
12      ciples all transactions, whether direct or indirect,  
13      with the Bell operating company;

14              “(2) not incur debt in a manner that would per-  
15      mit a creditor upon default to have recourse to the  
16      assets of the Bell operating company;

17              “(3) prepare financial statements that are not  
18      consolidated with those of the Bell operating com-  
19      pany or any affiliate, provided that consolidated  
20      statements may also be prepared;

21              “(4) file with the Commission annual reports in  
22      a form substantially equivalent to the Form 10-K  
23      referenced at 17 CFR 249.310 as that section and  
24      form are in effect on the date of enactment;

1           “(5) after 1 year from the effective date of this  
2           section, not hire as corporate officers sales and mar-  
3           keting management personnel whose responsibilities  
4           at the separated affiliate or electronic publishing  
5           joint venture will include the geographic area where  
6           the Bell operating company provides basic telephone  
7           service, or network operations personnel whose re-  
8           sponsibilities at the separated affiliate or electronic  
9           publishing joint venture would require dealing di-  
10          rectly with the Bell operating company, any person  
11          who was employed by the Bell operating company  
12          during the year preceding their date of hire, pro-  
13          vided that this requirement shall not apply to per-  
14          sons subject to a collective bargaining agreement  
15          that gives such persons rights to be employed by a  
16          separated affiliate or electronic publishing joint ven-  
17          ture of the Bell operating company;

18          “(6) not provide any wireline telephone ex-  
19          change service in any telephone exchange area where  
20          a Bell operating company with which it is under  
21          common ownership or control provides basic tele-  
22          phone exchange service except on a resale basis;

23          “(7) not use the name, trademarks, or service  
24          marks of an existing Bell operating company except  
25          for names or service marks that are or were used in

1 common with the entity that owns or controls the  
2 Bell operating company;

3 “(8) have performed annually by March 31, or  
4 any other date prescribed by the Commission, a  
5 compliance review which—

6 “(A) must be conducted by an independent  
7 entity which is subject to professional, legal,  
8 and ethical obligations for the purpose of deter-  
9 mining compliance during the preceding cal-  
10 endar year with any provision of this section  
11 that imposes a requirement on such separated  
12 affiliate or electronic publishing joint venture;  
13 and

14 “(B) must be maintained by the separated  
15 affiliate for a period of 5 years subject to re-  
16 view by any unlawful authority; and

17 “(9) within 90 days of receiving a review de-  
18 scribed in paragraph (8), file a report of such excep-  
19 tions and any corrective action with the Commission  
20 and allow any person to inspect and copy such re-  
21 port subject to reasonable safeguards to protect any  
22 proprietary information contained in such report  
23 from being used for purposes other than to enforce  
24 or pursue remedies under this section.



1       ~~“(c) BELL OPERATING COMPANY REQUIREMENTS.—~~

2       A Bell operating company under common ownership or  
3       control with a separated affiliate or electronic publishing  
4       joint venture shall—

5               ~~“(1) not provide a separated affiliate any facili-~~  
6               ties, services, or basic telephone service information  
7               unless it makes such facilities, services, or informa-  
8               tion available to unaffiliated entities upon request  
9               and on the same terms and conditions;

10              ~~“(2) carry out transactions with a separated af-~~  
11              filiate in a manner equivalent to the manner that  
12              unrelated parties would carry out independent trans-  
13              actions and not based upon the affiliation;

14              ~~“(3) carry out transactions with a separated af-~~  
15              filiate, which involve the transfer of personnel, as-  
16              sets, or anything of value, pursuant to written con-  
17              tracts or tariffs that are filed with the Commission  
18              and made publicly available;

19              ~~“(4) carry out transactions with a separated af-~~  
20              filiate in a manner that is auditable in accordance  
21              with generally accepted accounting principles;

22              ~~“(5) value any assets that are transferred to a~~  
23              separated affiliate at the greater of net book cost or  
24              fair market value;

1           ~~“(6) value any assets that are transferred to it~~  
2           ~~by its separated affiliate at the lesser of net book~~  
3           ~~cost or fair market value;~~

4           ~~“(7) except for—~~

5                 ~~“(A) instances where Commission or State~~  
6                 ~~regulations permit in-arrears payment for~~  
7                 ~~tariffed telecommunications services; or~~

8                 ~~“(B) the investment by an affiliate of divi-~~  
9                 ~~dends or profits derived from a Bell operating~~  
10                ~~company,~~

11           ~~not provide debt or equity financing directly or indi-~~  
12           ~~rectly to a separated affiliate;~~

13           ~~“(8) comply fully with all applicable Commis-~~  
14           ~~sion and State cost allocation and other accounting~~  
15           ~~rules;~~

16           ~~“(9) have performed annually by March 31, or~~  
17           ~~any other date prescribed by the Commission, a~~  
18           ~~compliance review which—~~

19                 ~~“(A) must be conducted by an independent~~  
20                 ~~entity which is subject to professional, legal,~~  
21                 ~~and ethical obligations for the purpose of deter-~~  
22                 ~~mining compliance during the preceding cal-~~  
23                 ~~endar year with any provision of this section~~  
24                 ~~that imposes a requirement on such Bell oper-~~  
25                 ~~ating company; and~~

1           “(B) must be maintained by the Bell oper-  
2           ating company for a period of 5 years subject  
3           to review by any lawful authority;

4           “(10) within 90 days of receiving a review de-  
5           scribed in paragraph (9), file a report of such excep-  
6           tions and any corrective action with the Commission  
7           and allow any person to inspect and copy such re-  
8           port subject to reasonable safeguards to protect any  
9           proprietary information contained in such report  
10          from being used for purposes other than to enforce  
11          or pursue remedies under this section;

12          “(11) if it provides facilities or services for tele-  
13          communication, transmission, billing and collection,  
14          or physical collocation to any electronic publisher,  
15          including a separated affiliate, for use with or in  
16          connection with the provision of electronic publishing  
17          that is disseminated by means of such Bell operating  
18          company’s or any of its affiliates’ basic telephone  
19          service, provide to all other electronic publishers the  
20          same type of facilities and services on request, on  
21          the same terms and conditions or as required by the  
22          Commission or a State, and unbundled and individ-  
23          ually tariffed to the same extent as provided to such  
24          publisher;

1           “(12) provide network access and interconnec-  
2           tions for basic telephone service to electronic pub-  
3           lishers at prices that are regulated so long as the  
4           prices for these services are subject to regulation;

5           “(13) if prices for network access and inter-  
6           connection for basic telephone service are no longer  
7           subject to regulation, provide electronic publishers  
8           such services on the same terms and conditions as  
9           a separated affiliate receives such services;

10          “(14) if any basic telephone service used by  
11          electronic publishers ceases to require a tariff, pro-  
12          vide electronic publishers with such service on the  
13          same terms and conditions as a separated affiliate  
14          receives such service;

15          “(15) provide reasonable advance notification at  
16          the same time and on the same terms to all affected  
17          electronic publishers of information relating to  
18          changes in basic telephone service network design  
19          and technical standards which would affect the pro-  
20          vision of electronic publishing;

21          “(16) not directly or indirectly provide anything  
22          of monetary value to a separated affiliate unless in  
23          exchange for consideration at least equal to the  
24          greater of its net book cost or fair market value, ex-

1       cept the investment by an affiliate of dividends or  
2       profits derived from a Bell operating company;

3           ~~“(17) not discriminate in the presentation or~~  
4       provision of any gateway for electronic publishing  
5       services or any electronic directory of information  
6       services, which is provided over such Bell operating  
7       company’s basic telephone service;

8           ~~“(18) have no directors, officers, or employees~~  
9       in common with a separated affiliate;

10          ~~“(19) not own any property in common with a~~  
11       separated affiliate;

12          ~~“(20) not perform hiring or training of person-~~  
13       nel performed on behalf of a separated affiliate;

14          ~~“(21) not perform the purchasing, installation,~~  
15       or maintenance of equipment on its behalf of a sepa-  
16       rated affiliate, except for telephone service that it  
17       provides under tariff or contract subject to the pro-  
18       visions of this section; and

19          ~~“(22) not perform research and development on~~  
20       behalf of a separated affiliate.

21       ~~“(d) CUSTOMER PROPRIETARY NETWORK INFORMA-~~  
22       TION.—A Bell operating company or any affiliate shall not  
23       provide to any electronic publisher, including a separated  
24       affiliate or electronic publishing joint venture, customer  
25       proprietary network information for use with or in connec-

1 tion with the provision of electronic publishing that is dis-  
 2 seminated by means of such Bell operating company's or  
 3 any of its affiliates' basic telephone service that is not  
 4 made available by the Bell operating company or affiliate  
 5 to all electronic publishers on the same terms and condi-  
 6 tions.

7       “(e) COMPLIANCE WITH SAFEGUARDS.—A Bell oper-  
 8 ating company, affiliate or its separated affiliate is prohib-  
 9 ited from acting in concert with another Bell operating  
 10 company or any entity in order to knowingly and willfully  
 11 violate or evade the requirements of this section.

12       “(f) TELEPHONE OPERATING COMPANY DIVI-  
 13 DENDS.—Nothing in this section shall prohibit an affiliate  
 14 from investing dividends derived from a Bell operating  
 15 company in its separated affiliate and subsections (i) and  
 16 (j) of this section shall not apply to any such investment.

17       “(g) JOINT MARKETING, AND SO FORTH.—Except as  
 18 provided in subsection (h)—

19               “(1) a Bell operating company shall not carry  
 20 out any promotion, marketing, sales, or advertising  
 21 for or in conjunction with a separated affiliate; and

22               “(2) a Bell operating company shall not carry  
 23 out any promotion, marketing, sales, or advertising  
 24 or in conjunction with an affiliate that is related to  
 25 the provision of electronic publishing.

1       “(h) PERMISSIBLE JOINT ACTIVITIES.—

2               “(1) JOINT TELEMARKETING.—A Bell operat-  
3       ing company may provide inbound telemarketing or  
4       referral services related to the provision of electronic  
5       publishing for a separated affiliate, electronic pub-  
6       lishing joint venture, affiliate, or unaffiliated elec-  
7       tronic publisher, provided that if such services are  
8       provided to a separated affiliate, electronic publish-  
9       ing joint venture, or affiliate, such services shall be  
10      made available to all electronic publishers on re-  
11      quest, on nondiscriminatory terms, at compensatory  
12      prices, and subject to regulations of the Commission  
13      to ensure that the Bell operating company’s method  
14      of providing telemarketing or referral and its price  
15      structure do not competitively disadvantage any elec-  
16      tronic publishers regardless of size, including those  
17      which do not use the Bell operating company’s  
18      telemarketing services.

19              “(2) TEAMING ARRANGEMENTS.—A Bell oper-  
20      ating company may engage in nondiscriminatory  
21      teaming or business arrangements to engage in elec-  
22      tronic publishing with any separated affiliate or with  
23      any other electronic publisher provided that the Bell  
24      operating company only provides facilities, services,  
25      and basic telephone service information as author-

1        ized by this section and provided that the Bell oper-  
2        ating company own such teaming or business ar-  
3        rangement.

4        ~~“(3) ELECTRONIC PUBLISHING JOINT VEN-~~  
5        ~~TURES.—~~A Bell operating company or affiliate may  
6        participate on a nonexclusive basis in electronic pub-  
7        lishing joint ventures with entities that are not any  
8        Bell operating company, affiliate, or separated affili-  
9        ate to provide electronic publishing services, provided  
10       that the Bell operating company or affiliate has not  
11       more than a 50 percent direct or indirect equity in-  
12       terest ~~(or the equivalent thereof)~~ or the right to  
13       more than 50 percent of the gross revenues under  
14       a revenue sharing or royalty agreement in any elec-  
15       tronic publishing joint venture. Officers and employ-  
16       ees of a Bell operating company or affiliate partici-  
17       pating in an electronic publishing joint venture may  
18       not have more than 50 percent of the voting control  
19       over the electronic publishing joint venture. In the  
20       case of joint ventures with small, local electronic  
21       publishers, the Commission for good cause shown  
22       may authorize the Bell operating company or affili-  
23       ate to have a larger equity interest, revenue share,  
24       or voting control but not to exceed 80 percent. A  
25       Bell operating company participating in an elec-



1       tronic publishing joint venture may provide pro-  
 2       motion, marketing, sales, or advertising personnel  
 3       and services to such joint venture.

4       “(i) TRANSACTIONS RELATED TO THE PROVISION OF  
 5       ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OP-  
 6       ERATING COMPANY AND ANY AFFILIATE.—

7               “(1) Any provision of facilities, services, or  
 8       basic telephone service information or any transfer  
 9       of assets, personnel, or anything of commercial or  
 10      competitive value from a Bell operating company to  
 11      any affiliate related to the provision of electronic  
 12      publishing shall be—

13              “(A) recorded in the books and records of  
 14      each entity;

15              “(B) auditable in accordance with gen-  
 16      erally accepted accounting principles; and

17              “(C) pursuant to written contracts or tar-  
 18      iffs filed with the Commission or a State and  
 19      made publicly available.

20              “(2) Any transfer of assets directly related to  
 21      the provision of electronic publishing from a Bell op-  
 22      erating company to an affiliate shall be valued at the  
 23      greater of net book cost or fair market value. Any  
 24      transfer of assets related to the provision of elec-  
 25      tronic publishing from an affiliate to the Bell operat-

1       ing company shall be valued at the lesser of net book  
2       cost or fair market value.

3           ~~“(3) A Bell operating company shall not pro-~~  
4       ~~vide an affiliate any facilities, services, or basic tele-~~  
5       ~~phone service information related to the provision of~~  
6       ~~electronic publishing, which such affiliate then di-~~  
7       ~~rectly or indirectly provides to a separated affiliate,~~  
8       ~~and which is not made available to unaffiliated com-~~  
9       ~~panies on the same terms and conditions.~~

10       ~~“(j) TRANSACTIONS RELATED TO THE PROVISION OF~~  
11       ~~ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND~~  
12       ~~A SEPARATED AFFILIATE.—~~

13           ~~“(1) Any facilities, services, or basic telephone~~  
14       ~~service information provided or any assets, person-~~  
15       ~~nel, or anything of commercial or competitive value~~  
16       ~~transferred, from a Bell operating company to any~~  
17       ~~affiliate as described in subsection (i) and then pro-~~  
18       ~~vided or transferred to a separated affiliate shall~~  
19       ~~be—~~

20           ~~“(A) recorded in the books and records of~~  
21       ~~each entity;~~

22           ~~“(B) auditable in accordance with gen-~~  
23       ~~erally accepted accounting principles; and~~

1           ~~“(C) pursuant to written contracts or tar-~~  
2           ~~iffs filed with the Commission or a State and~~  
3           ~~made publicly available.~~

4           ~~“(2) Any transfer of assets directly related to~~  
5           ~~the provision of electronic publishing from a Bell op-~~  
6           ~~erating company to any affiliate as described in sub-~~  
7           ~~section (i) and then transferred to a separated affili-~~  
8           ~~ate shall be valued at the greater of net book cost~~  
9           ~~or fair market value. Any transfer of assets related~~  
10          ~~to the provision of electronic publishing from a sepa-~~  
11          ~~rated affiliate to any affiliate and then transferred~~  
12          ~~to the Bell operating company as described in sub-~~  
13          ~~section (i) shall be valued at the lesser of net book~~  
14          ~~cost or fair market value.~~

15          ~~“(3) An affiliate shall not provide a separated~~  
16          ~~affiliate any facilities, services, or basic telephone~~  
17          ~~service information related to the provision of elec-~~  
18          ~~tronic publishing, which were provided to such affili-~~  
19          ~~ate directly or indirectly by a Bell operating com-~~  
20          ~~pany, and which is not made available to unaffiliated~~  
21          ~~companies on the same terms and conditions.~~

22          ~~“(k) OTHER ELECTRONIC PUBLISHERS.—Except as~~  
23          ~~provided in subsection (h)(3)—~~

24          ~~“(1) a bell operating company shall not have~~  
25          ~~any officers, employees, property, or facilities in~~

1 common with any entity whose principal business is  
2 publishing of which a part is electronic publishing;

3 ~~“(2) no officer or employee of a Bell operating~~  
4 ~~company shall serve as a director of any entity~~  
5 ~~whose principal business is publishing of which a~~  
6 ~~part is electronic publishing;~~

7 ~~“(3) for the purposes of paragraphs (1) and~~  
8 ~~(2), a Bell operating company or an affiliate that~~  
9 ~~owns an electronic publishing joint venture shall not~~  
10 ~~be deemed to be engaged in the electronic publishing~~  
11 ~~business solely because of such ownership;~~

12 ~~“(4) a Bell operating company shall not carry~~  
13 ~~out—~~

14 ~~“(A) any marketing or sales for any entity~~  
15 ~~that engages in electronic publishing; or~~

16 ~~“(B) any hiring of personnel, purchasing,~~  
17 ~~or production, for any entity that engages in~~  
18 ~~electronic publishing; and~~

19 ~~“(5) the Bell operating company shall not pro-~~  
20 ~~vide any facilities, services, or basic telephone service~~  
21 ~~information to any entity that engages in electronic~~  
22 ~~publishing, for use with or in connection with the~~  
23 ~~provision of electronic publishing that is dissemi-~~  
24 ~~nated by means of such Bell operating company's or~~  
25 ~~any of its affiliates' basic telephone service, unless,~~

1       equivalent facilities, services, or information are  
2       made available on equivalent terms and conditions to  
3       all.

4       “(l) TRANSITION.—Any electronic publishing service  
5       being offered to the public by a Bell operating company  
6       or affiliate on the date of enactment of this section shall  
7       have one year from such date of enactment to comply with  
8       the requirements of this section.

9       “(m) SUNSET.—The provisions of this section shall  
10      cease to apply to a Bell operating company or its affiliate  
11      or separated affiliate in any telephone exchange area on  
12      June 30, 2000.

13      “(n) PRIVATE RIGHT OF ACTION.—

14           “(1) Any person claiming that any act or prac-  
15      tice of any Bell operating company, affiliate, or sep-  
16      arated affiliate constitutes a violation of this section  
17      may file a complaint with the Commission or bring  
18      suit as provided in section 207 of this Act, and such  
19      Bell operating company, affiliate, or separated affili-  
20      ate shall be liable as provided in section 206 of this  
21      Act: *Provided, however,* That damages may not be  
22      awarded for a violation that is discovered by a com-  
23      pliance review as required by subsection (b)(8) or  
24      (c)(9) of this section and corrected within 90 days.

1           “(2) In addition to the provisions of paragraph  
 2           (1), any person claiming that any act or practice of  
 3           any Bell operating company, affiliate, or separated  
 4           affiliate constitutes a violation of this section may  
 5           make application to the Commission for an order to  
 6           cease and desist such violation or may make applica-  
 7           tion in any district court of the United States of  
 8           competent jurisdiction for an order enjoining such  
 9           acts or practices or for an order compelling compli-  
 10          ance with such requirement.

11          “(o) ANTITRUST LAWS.—Nothing in this section  
 12          shall be construed to modify, impair, or supersede the ap-  
 13          plicability of any of the antitrust laws.

14          “(p) DEFINITIONS.—As used in this section:

15               “(1) The term ‘affiliate’ means any entity that,  
 16               directly or indirectly, owns or controls, is owned or  
 17               controlled by, or is under common ownership or con-  
 18               trol with, a Bell operating company. Such term shall  
 19               not include a separated affiliate.

20               “(2) the term ‘basic telephone service’ means  
 21               wireline telephone exchange service provided by a  
 22               Bell operating company in a telephone exchange  
 23               area, except—

24                       “(A) a competitive wireline telephone ex-  
 25                       change service provided in a telephone exchange

1 area where another entity provides a wireline  
2 telephone exchange service that was provided on  
3 January 1, 1984; and

4 “(B) wireless telephone exchange service  
5 provided by an affiliate that is required by the  
6 Commission to be a corporate entity separate  
7 from the Bell operating company.

8 “(3) The term ‘basic telephone service informa-  
9 tion’ means network and customer information of a  
10 Bell operating company and other information ac-  
11 quired by a Bell operating company as a result of  
12 its engaging in the provision of basic telephone  
13 service.

14 “(4) The term ‘control’ has the meaning that it  
15 has in 17 CFR 240.12b-2, the regulations promul-  
16 gated by the Securities and Exchange Commission  
17 pursuant to the Securities Exchange Act of 1934  
18 (15 U.S.C. 78a et seq.) or any successor provision  
19 to such section.

20 “(5) The term ‘customer proprietary network  
21 information’ means—

22 “(A) information which—

23 “(i) relates to the quantity, technical  
24 configuration, type, destination, and  
25 amount of use of telephone exchange serv-

1           ice or interexchange telephone service sub-  
 2           scribed to by any customer of a Bell oper-  
 3           ating company, and

4           “(ii) is available to the Bell operating  
 5           company by virtue of the telephone com-  
 6           pany-customer relationship; and

7           “(B) information contained in the bills for  
 8           telephone exchange service or interexchange  
 9           telephone service received by a customer of a  
 10          Bell operating company.

11          “(6)(A) The term ‘electronic publishing’ means  
 12          the dissemination, provision, publication, or sale by  
 13          a provider or publisher to an unaffiliated entity or  
 14          person using a Bell operating company’s local ex-  
 15          change facility of any information which the provider  
 16          or publisher has or has caused to be originated, au-  
 17          thored, compiled, collected, or edited or in which the  
 18          provider or publisher has direct or indirect financial  
 19          or proprietary interest, including but not limited to  
 20          the following:

21               “(i) News or entertainment.

22               “(ii) Business, financial, legal, consumer,  
 23               or credit material.

24               “(iii) Editorials.

25               “(iv) Columns.



1                   “(v) Sports reporting.

2                   “(vi) Features.

3                   “(vi) Advertising.

4                   “(viii) Photos or images.

5                   “(ix) Archival or research material.

6                   “(x) Legal notices or public records.

7                   “(xi) Scientific, educational, instructional,  
8                   technical, professional, trade, or other literary  
9                   materials.

10                  “(xii) Other like or similar information.

11                  “(B) The term ‘electronic publishing’ shall not  
12                  include the following network services:

13                       “(i) Information access as that term is de-  
14                       fined by the Modification of Final Judgment.

15                       “(ii) The transmission of information as a  
16                       common carrier.

17                       “(iii) The transmission of information as  
18                       part of a gateway to an information service that  
19                       does not involve the generation or alteration of  
20                       the content of information, including data  
21                       transmission, address translation, protocol con-  
22                       version, billing management, introductory infor-  
23                       mation content, and navigational systems that  
24                       enable users to access electronic publishing

1 services, which do not affect the presentation of  
2 such electronic publishing services to users.

3 “(iv) Voice storage and retrieval services,  
4 including voice messaging and electronic mail  
5 services.

6 “(v) Level 2 gateway services as those  
7 services are defined by the Commission’s Sec-  
8 ond Report and Order, Recommendation to  
9 Congress and Second Further Notice of Pro-  
10 posed Rulemaking in CC Docket No. 87-266  
11 dated August 14, 1992.

12 “(vi) Data processing services that do not  
13 involve the generation or alteration of the con-  
14 tent of information.

15 “(vii) Transaction processing systems that  
16 do not involve the generation or alteration of  
17 the content of information.

18 “(viii) Electronic billing or advertising of a  
19 Bell operating company’s regulated tele-  
20 communications services.

21 “(ix) Language translation.

22 “(x) Conversion of data from one format  
23 to another.

24 “(xi) The provision of information nec-  
25 essary for the management, control, or oper-

1           ation of a telephone company telecommuni-  
2           cations system.

3           ~~“(xii) The provision of directory assistance~~  
4           ~~that provides names, addresses, and telephone~~  
5           ~~numbers and does not include advertising.~~

6           ~~“(xiii) Caller identification services.~~

7           ~~“(xiv) Repair and provisioning databases~~  
8           ~~for telephone company operations.~~

9           ~~“(xv) Credit card and billing validation for~~  
10          ~~telephone company operations.~~

11          ~~“(xvi) 911-E and other emergency assist-~~  
12          ~~ance databases.~~

13          ~~“(xvii) Any other network service of a type~~  
14          ~~that is like or similar to these network services~~  
15          ~~and that does not involve the generation or al-~~  
16          ~~teration of the content of information.~~

17          ~~“(xviii) Any upgrades to these network~~  
18          ~~services that do not involve the generation or~~  
19          ~~alteration of the content of information.~~

20          ~~“(C) The term ‘electronic publishing’ also shall~~  
21          ~~not include—~~

22                 ~~“(i) full motion video entertainment on de-~~  
23                 ~~mand; and~~

24                 ~~“(ii) video programming as defined in sec-~~  
25                 ~~tion 602 of this Act.~~

1           “(7) The term ‘electronic publishing joint ven-  
2           ture’ means a joint venture owned by a Bell operat-  
3           ing company or affiliate that engages in the provi-  
4           sion of electronic publishing which is disseminated  
5           by means of such Bell operating company’s or any  
6           of its affiliates’ basic telephone service.

7           “(8) The term ‘entity’ means any organization,  
8           and includes corporations, partnerships, sole propri-  
9           etorships, associations, and joint ventures.

10          “(9) The term ‘inbound telemarketing’ means  
11          the marketing of property, goods, or services by tele-  
12          phone to a customer or potential customer who initi-  
13          ated the call.

14          “(10) The term ‘own’ with respect to an entity  
15          means to have a direct or indirect equity interest (or  
16          the equivalent thereof) of more than 10 percent of  
17          an entity, or the right to more than 10 percent of  
18          the gross revenues of an entity under a revenue  
19          sharing or royalty agreement.

20          “(11) The term ‘separated affiliate’ means a  
21          corporation under common ownership or control with  
22          a Bell operating company that does not own or con-  
23          trol a Bell operating company and is not owned or  
24          controlled by a Bell operating company and that en-  
25          gages in the provision of electronic publishing which

1 is disseminated by means of such Bell operating  
 2 company's or any of its affiliates' basic telephone  
 3 service.

4 “(12) The term ‘Bell operating company’ means  
 5 the corporations subject to the Modification of Final  
 6 Judgment and listed in Appendix A thereof, or any  
 7 entity owned or controlled by such corporation, or  
 8 any successor or assign of such corporation, but  
 9 does not include an electronic publishing joint ven-  
 10 ture owned by such corporation or entity.”

# 11 **Subtitle C—Information Services**

## 12 **SEC. 491. PROVISION OF INFORMATION SERVICES.**

13 Title II of the Communications Act of 1934 (47  
 14 U.S.C. 201 et seq.), as amended by this Act, is further  
 15 amended by adding at the end the following new section:

## 16 **“SEC. 234. PROVISION OF INFORMATION SERVICES.**

17 “(a) PROVISION OF GATEWAY SERVICES.—Unless ex-  
 18 pressly provided elsewhere in this Act, and Bell operating  
 19 company or affiliate thereof that offers a gateway service  
 20 shall make such service available concurrently to all of its  
 21 subscribers under nondiscriminatory rates, terms, and  
 22 conditions, and shall offer gateway service functions to all  
 23 providers of information services on nondiscriminatory  
 24 rates, terms, and conditions.

1       ~~“(b) PREVENTION OF CROSS-SUBSIDIES.—In addi-~~  
 2       ~~tion to regulations on cross-subsidization that are pre-~~  
 3       ~~scribed under other provisions of this Act, the Commission~~  
 4       ~~shall prescribe cost allocation regulations to prevent any~~  
 5       ~~Bell operating company or affiliate that offers services~~  
 6       ~~that have market power from using revenues from such~~  
 7       ~~services to subsidize competitive information services.~~

8       ~~“(c) RESTRICTION ON STATE REGULATION.—Not-~~  
 9       ~~withstanding section 2(b) of this Act, a State may not reg-~~  
 10       ~~ulate the rates, terms, or conditions for the offering of~~  
 11       ~~information services, except as provided in title VI.~~

12       ~~“(d) DEFINITIONS.—As used in this section:~~

13               ~~“(1) The term ‘Bell operating company’ has the~~  
 14               ~~meaning given that term under section 231.~~

15               ~~“(2) The term ‘gateway service’ means an in-~~  
 16               ~~formation service that, at the request of the provider~~  
 17               ~~of an electronic publishing service or other informa-~~  
 18               ~~tion service, provides a subscriber with access to~~  
 19               ~~such electronic publishing service or other informa-~~  
 20               ~~tion service, utilizing the following functions: data~~  
 21               ~~transmission, address translation, billing informa-~~  
 22               ~~tion, protocol conversion, and introductory informa-~~  
 23               ~~tion content.~~

24               ~~“(3) The term ‘affiliate’ has the meaning given~~  
 25               ~~that term under section 236 of this Act.”.~~

1     **Subtitle D—InterLATA Telecommunications**  
 2                                     **Services**

3     **SEC. 481. INTERLATA TELECOMMUNICATIONS SERVICES.**

4         Title II of the Communications Act of 1934 (47  
 5 U.S.C. 201 et seq.), as amended by this Act, is further  
 6 amended by adding at the end the following new section:

7     ~~“SEC. 235. INTERLATA TELECOMMUNICATIONS SERVICES.~~

8         ~~“(a) AUTHORITY.—Notwithstanding any restriction~~  
 9 ~~or obligation imposed before the date of enactment of this~~  
 10 ~~section pursuant to section II(D) of the Modification of~~  
 11 ~~Final Judgment, a Bell operating company may engage~~  
 12 ~~in the provision of interLATA telecommunications services~~  
 13 ~~subject to the requirements of this section and any regula-~~  
 14 ~~tions prescribed thereunder. No Bell operating company~~  
 15 ~~or affiliate of a Bell operating company shall engage in~~  
 16 ~~the provision of interLATA telecommunications services,~~  
 17 ~~except as provided in this section.~~

18         ~~“(b) CURRENTLY AUTHORIZED ACTIVITIES.—Sub-~~  
 19 ~~section (a) shall not prohibit a Bell operating company~~  
 20 ~~from engaging, at any time after the date of enactment~~  
 21 ~~of this section, in any activity as authorized by an order~~  
 22 ~~entered by the United States District Court for the Dis-~~  
 23 ~~trict of Columbia pursuant to section VIII(C) of the Modi-~~  
 24 ~~fication of Final Judgment if such order was entered on~~  
 25 ~~or before such date of enactment.~~

1       “(c) PETITION FOR AUTHORITY.—

2               “(1) IN GENERAL.—A Bell operating company  
3       or its affiliate may petition the Commission for au-  
4       thority to provide interLATA telecommunications  
5       services. The petition shall describe with particular-  
6       ity the nature and scope of each proposed  
7       interLATA telecommunications service, and of each  
8       product market or service market, and each geo-  
9       graphic market, for which authorization is sought.

10              “(2) REQUIRED SHOWING FOR IN-MARKET  
11       SERVICES.—The Commission may, after consultation  
12       with the Attorney General, and on the record after  
13       opportunity for a hearing in which the public has an  
14       opportunity to participate, grant a petition for au-  
15       thority to offer an interLATA telecommunications  
16       service to be originated, terminated, or otherwise  
17       provided in any area in which the petitioner or its  
18       affiliate provides telephone exchange or exchange ac-  
19       cess services, only if—

20                      “(A) the showing required by paragraph  
21       (3) is made;

22                      “(B) all the regulations required by section  
23       230 have been prescribed by the Commission,  
24       and each relevant State certifies and the Com-  
25       mission finds that the petitioning Bell operating



1 company or its affiliate is providing telephone  
2 exchange and exchange access service in the rel-  
3 evant telephone exchange or exchange access  
4 market in full compliance with such regulations;  
5 and

6 “(C) the Commission finds, after receiving  
7 factual evidence submitted by the State, that  
8 there is actual and demonstrable competition to  
9 the Bell operating company’s telephone ex-  
10 change and exchange access services in each  
11 relevant area, based on the requirement that  
12 actual and demonstrable competition exists  
13 when telephone exchange and exchange access  
14 services—

15 “(i) are available from at least one  
16 provider that is unaffiliated with the peti-  
17 tioning Bell operating company or its af-  
18 filiates;

19 “(ii) offered predominantly over facili-  
20 ties not owned or controlled by the Bell op-  
21 erating company or its affiliates and are  
22 comparable in geographic range, function,  
23 quality, and price to the service offered by  
24 the petitioning Bell operating company or  
25 its affiliate; and

1                   ~~“(iii) subscribed to by a significant~~  
 2                   ~~number of persons in each relevant area.~~

3                   ~~“(3) REQUIRED SHOWING FOR OUT-OF-MARKET~~  
 4                   ~~SERVICES.—The Commission may, after consultation~~  
 5                   ~~with the Attorney General, and on the record after~~  
 6                   ~~opportunity for a hearing in which the public has an~~  
 7                   ~~opportunity to participate, grant authority to a peti-~~  
 8                   ~~tioning Bell operating company or its affiliate to~~  
 9                   ~~provide interLATA telecommunications services not~~  
 10                  ~~described in paragraph (2), upon a showing by the~~  
 11                  ~~petitioner that there is no substantial possibility that~~  
 12                  ~~the Bell operating company or its affiliates could use~~  
 13                  ~~market power in a telephone exchange and exchange~~  
 14                  ~~access service market to impede competition in the~~  
 15                  ~~interLATA telecommunications services market that~~  
 16                  ~~the petitioner seeks to enter.~~

17                  ~~“(4) INTERLATA TELECOMMUNICATIONS SERV-~~  
 18                  ~~ICE SAFEGUARDS.—~~

19                  ~~“(A) SEPARATE SUBSIDIARY; FULFILL-~~  
 20                  ~~MENT OF CERTAIN REQUESTS.—Other than~~  
 21                  ~~interLATA services authorized by an order en-~~  
 22                  ~~tered by the United States District Court for~~  
 23                  ~~the District of Columbia pursuant to section~~  
 24                  ~~VIII(C) of the Modification of Final Judgment~~  
 25                  ~~before the date of the enactment of this section,~~

1 a Bell operating company or an affiliate thereof  
2 providing interLATA services authorized under  
3 this subsection shall do so through a separate  
4 subsidiary as specified in section 236. Such sep-  
5 arate subsidiary shall—

6 “(i) fulfill any requests from an unaf-  
7 filiated entity for exchange access service  
8 within a period no longer than that in  
9 which it provides such exchange access  
10 service to itself or to its affiliates;

11 “(ii) fulfill any such requests with ex-  
12 change access service of a quality that  
13 meets or exceeds the quality of exchange  
14 access services provided by the Bell operat-  
15 ing company or its affiliates to itself or its  
16 affiliate; and

17 “(iii) provide exchange access at rates  
18 to all interLATA carrier at rates that are  
19 not unreasonably discriminatory.

20 “(B) COMMISSION ACTION ON COM-  
21 PLAINTS.—With respect to any complaint  
22 brought under section 208 alleging a violation  
23 of this section or the regulations implementing  
24 it, the Commission shall issue a final order  
25 within 1 year after such complaint is filed.

1       ~~“(d) ADDITIONAL INTERLATA AUTHORITY ASSOCI-~~  
 2       ~~ATED WITH CABLE TELEVISION SERVICE.—~~

3               ~~“(1) AUTHORITY.—Notwithstanding subsection~~  
 4       ~~(c), a Bell operating company or its affiliate may—~~

5               ~~“(A) own and operate receive-only anten-~~  
 6               ~~nas, satellite master antenna television facili-~~  
 7               ~~ties, and satellite earth stations, solely for the~~  
 8               ~~purpose of providing cable service;~~

9               ~~“(B) own and operate interLATA distribu-~~  
 10              ~~tion facilities solely for the purpose of providing~~  
 11              ~~cable service; and~~

12              ~~“(C) engage in interLATA telecommuni-~~  
 13              ~~cations service for the purpose of one-way~~  
 14              ~~transmission of video and audio programming~~  
 15              ~~solely for cable service.~~

16              ~~“(2) RESTRICTION.—A Bell operating company~~  
 17              ~~may own and operate the antennas, stations, and fa-~~  
 18              ~~cilities described in paragraph (1)(A) and (B) only~~  
 19              ~~through one or more affiliates that are totally sepa-~~  
 20              ~~rate from the Bell operating company’s local ex-~~  
 21              ~~change company.~~

22       ~~“(e) ADDITIONAL AUTHORITY TO PROVIDE~~  
 23       ~~INTERLATA SERVICES RELATING TO CELLULAR MOBILE~~  
 24       ~~RADIO SERVICES.—~~

1           “(1) AUTHORITY.—A Bell operating company  
2           or its cellular affiliate may provide the interLATA  
3           services authorized under this section solely as nec-  
4           essary to provide cellular mobile radio services.

5           “(2) INTERSYSTEM HANDOFF.—A Bell operat-  
6           ing company or its cellular affiliate may provide  
7           intersystem handoff, across LATA boundaries, of  
8           cellular mobile radio transmissions between adjacent  
9           cellular systems, including the provision of such  
10          transmission facilities as are necessary to allow the  
11          continuation of calls in progress without interruption  
12          or degradation of service due to the movement of the  
13          mobile telephone unit or the characteristics of radio  
14          propagation.

15          “(3) AUTOMATIC CALL DELIVERY.—A Bell op-  
16          erating company or its cellular affiliate may provide  
17          the routing of cellular transmissions between its cel-  
18          lular system and a cellular system located in another  
19          LATA, for purposes of completing a call to one of  
20          its out-of-region cellular customers.

21          “(4) USE OF LEASED FACILITIES.—Facilities  
22          necessary for intersystem handoff across LATA  
23          boundaries or interLATA routing of cellular trans-  
24          missions, as permitted under paragraphs (2) and  
25          (3), shall be leased by a Bell operating company or

1 its cellular affiliate from a carrier (other than a Bell  
 2 operating company or its affiliate) authorized to pro-  
 3 vide interLATA telecommunications.

4 ~~“(5) EQUAL ACCESS AND PRESUBSCRIPTION.—~~  
 5 Notwithstanding any restriction or obligation im-  
 6 posed pursuant to the Modification of Final Judg-  
 7 ment before the date of enactment of this section,  
 8 the Commission shall prescribe uniform equal access  
 9 and long distance presubscription requirements for  
 10 providers of all cellular and two-way wireless serv-  
 11 ices.

12 ~~“(d) DEFINITIONS.—As used in this section:~~

13 ~~“(1) The term ‘LATA’ means the local access~~  
 14 ~~and transport areas as defined in United States v.~~  
 15 ~~Western Electric Co., 569 F.Supp. 990 (United~~  
 16 ~~States District Court, District of Columbia) and~~  
 17 ~~subsequent judicial orders relating thereto.~~

18 ~~“(2) the term ‘cable service’ has the meaning~~  
 19 ~~given that term under section 602.”.~~

20 **SEC. 482. JURISDICTION.**

21 Section 2(b) of the Communications Act of 1934 (47  
 22 U.S.C. 153) is amended by striking “section 332” and in-  
 23 serting in lieu thereof “sections 229, 230, 234, 235, 237,  
 24 and 332”.

1 **TITLE V—REGULATORY PARITY BETWEEN**  
 2 **TELEPHONE AND CABLE COMPANIES**

3 **SEC. 501. OWNERSHIP AND CONTROL OF CABLE TELE-**  
 4 **VISION SYSTEMS AND TELEPHONE COMPA-**  
 5 **NIES.**

6 Section 613(b) of the Communications Act of 1934  
 7 (~~47 U.S.C. 533(b)~~) is amended to read as follows:

8 “(b)(1)(A) No local exchange carrier, subject in whole  
 9 or in part to title II of this Act, nor any affiliate of such  
 10 carrier, owned by, operated by, controlled by, or under  
 11 common control with such carrier, may—

12 “(i) purchase or otherwise acquire, directly or  
 13 indirectly, more than a 5 percent financial interest,  
 14 any management interest, or any other interest, in  
 15 any cable system that is providing service within the  
 16 carrier’s telephone exchange service area and is  
 17 owned by an unaffiliated person; or

18 “(ii) enter into any joint venture or partnership  
 19 with a cable operator to provide video programming  
 20 to subscribers within such telephone exchange serv-  
 21 ice area.

22 “(B) A local exchange carrier shall not provide video  
 23 programming directly to subscribers in its telephone ex-  
 24 change service area unless—

1           “(i) such video programming is provided  
2           through a separate subsidiary as set forth in section  
3           236; and

4           “(ii) the Commission finds that the local ex-  
5           change carrier offers service in full compliance with  
6           the regulations prescribed under section 230 in the  
7           geographic area in which it seeks to provide video  
8           programming.

9           “(C) A local exchange carrier that provides video pro-  
10          gramming directly to subscribers is a cable operator as  
11          defined in section 602.

12          “(D) a local exchange carrier shall not engage in  
13          practices prohibited by the Commission or by a State (in-  
14          cluding but not limited to the improper assignment of  
15          costs) that subsidize directly or indirectly its video pro-  
16          gramming operations.

17          “(E) Subparagraphs (A) and (B) shall not apply to  
18          a local exchange carrier to the extent that such carrier  
19          provides telephone exchange service in an area to which  
20          an exemption applies under section 63.58 of title 47, Code  
21          of Federal Regulations (as in effect on the date of enact-  
22          ment of the Communications Act of 1994).

23          “(F) Upon a showing that a local exchange carrier  
24          has no market power in its telephone service area, the



1 Commission shall exempt the carrier from the provisions  
2 of subparagraphs (B) and (D).

3       ~~“(2)(A)~~ A cable operator shall not provide tele-  
4 communications services directly to subscribers in its cable  
5 service area unless such telecommunications services are  
6 provided through a separate subsidiary.

7       ~~“(B)~~ No cable operator, nor any affiliate of such  
8 cable operator, owned by, operated by, controlled by, or  
9 under common ownership with such cable operator, may—

10           ~~“(i)~~ purchase or otherwise acquire, directly or  
11 indirectly, more than a 5 percent financial interest,  
12 any management interest, or any other interest, in  
13 any local exchange carrier that is providing local ex-  
14 change service within the cable operator’s service  
15 area; or

16           ~~“(ii)~~ enter into any joint venture or partnership  
17 with such local exchange carrier, unless—

18           ~~“(I)~~ the joint venture or partnership ad-  
19 vances the objectives of local competition by  
20 promoting or increasing telecommunications  
21 competition over facilities separate from the  
22 local exchange carrier’s facilities in the local ex-  
23 change carrier’s service area; and

24           ~~“(II)~~ the local exchange carrier’s interest  
25 in such competing telecommunications services

1 provider does not retard the competing provid-  
 2 er's incentives to compete.

3 ~~“(C) A cable operator shall not engage in practices~~  
 4 ~~prohibited by the Commission or by a State (including but~~  
 5 ~~not limited to the improper assignment of costs) that sub-~~  
 6 ~~sidize directly or indirectly its telecommunications serv-~~  
 7 ~~ices.~~

8 ~~“(D) Upon a showing that a cable operator has no~~  
 9 ~~market power in its cable service area, the Commission~~  
 10 ~~shall exempt the cable operator from the provisions of sub-~~  
 11 ~~paragraphs (A), (B), and (C).”.~~

12 **SEC. 502. CONSUMER AND COMPETITIVE SAFEGUARDS.**

13 Title II of the Communications Act of 1934 (47  
 14 U.S.C. 201 et seq.), as amended by this Act, is further  
 15 amended by adding at the end the following new section:

16 **“SEC 236. CONSUMER AND COMPETITIVE SAFEGUARDS.**

17 ~~“(a) SEPARATE SUBSIDIARY.—~~

18 ~~“(1) IN GENERAL.—Any subsidiary required by~~  
 19 ~~section 235 or 613(b)(1) shall, at a minimum, be~~  
 20 ~~separated from a local exchange carrier, in accord-~~  
 21 ~~ance with the requirements of this subsection and~~  
 22 ~~the regulations prescribed by the Commission to~~  
 23 ~~carry out this subsection.~~

24 ~~“(2) TRANSACTION REQUIREMENTS.—Any~~  
 25 ~~transaction between such a subsidiary and any local~~

1 exchange carrier and any other affiliate of the car-  
2 rier shall not be based upon any preference or dis-  
3 crimination in favor of the subsidiary arising out of  
4 the subsidiary's affiliation with the carrier.

5 ~~“(3) SEPARATE OPERATION AND PROPERTY.—~~

6 A subsidiary required by this subsection may not  
7 enter into any joint venture activities or partnership  
8 with a local exchange carrier or any affiliate of such  
9 carrier.

10 ~~“(4) SEPARATE COMMERCIAL ACTIVITIES.—A~~

11 subsidiary required by this subsection shall carry out  
12 its marketing and sales directly and separate from  
13 any local exchange carrier or its affiliate.

14 ~~“(5) BOOKS, RECORDS, AND ACCOUNTS.—Any~~

15 subsidiary required by this subsection shall maintain  
16 books, records, and accounts in a manner prescribed  
17 by the Commission which shall be separate from the  
18 books, records, and accounts maintained by any local  
19 exchange carrier or any affiliates of such carrier.

20 ~~“(6) PROVISION OF SERVICES AND INFORMA-~~

21 ~~TION.—A local exchange carrier may not provide any~~  
22 ~~services or information to a subsidiary required by~~  
23 ~~this subsection unless such services or information~~  
24 ~~are made available to others on the same terms and~~  
25 ~~conditions.~~

1           ~~“(7) PREVENTION OF CROSS-SUBSIDIES.—~~Any  
 2           local exchange carrier required to maintain a sub-  
 3           sidiary under this subsection shall establish and ad-  
 4           minister, in accordance with the requirements of this  
 5           subsection and the regulations prescribed there-  
 6           under, a cost allocation system that prohibits any  
 7           cost of providing competitive services from being  
 8           subsidized by revenue from telephone exchange serv-  
 9           ices. The cost allocation system shall employ a for-  
 10          mula that ensures that—

11                 ~~“(A) the rates for telephone exchange serv-~~  
 12                 ices are no greater than they would have been  
 13                 in the absence of such investment in competi-  
 14                 tive services (taking into account any decline in  
 15                 the real costs of providing such telephone ex-  
 16                 change services); and

17                 ~~“(B) competitive services bear a reasonable~~  
 18                 share of the joint and common costs of facilities  
 19                 used to provide telephone exchange and com-  
 20                 petitive services.

21           ~~“(8) ASSETS.—~~The Commission shall, by regu-  
 22           lation, ensure that the economic risks associated  
 23           with the provision of competitive services by a local  
 24           exchange carrier or an affiliate thereof (including  
 25           any increases in the carrier’s cost of capital that

1 occur as a result of the provision of such services)  
 2 are not borne by customers of telephone exchange  
 3 services in the event of a business loss or failure. In-  
 4 vestments or other expenditures assigned to competi-  
 5 tive services shall not be reassigned to telephone ex-  
 6 change service or telephone exchange access service.

7 “(9) DEBT.—Any local exchange carrier, which  
 8 is required to be or is structurally separate from an  
 9 affiliate engaged in the provision of telephone ex-  
 10 change services, shall not obtain credit under any ar-  
 11 rangement that would—

12 “(A) permit a creditor, upon default, to  
 13 have recourse to the assets of the local ex-  
 14 change carrier; or

15 “(B) induce a creditor to rely on the tan-  
 16 gible or intangible assets of the local exchange  
 17 carrier in extending credit.

18 “(b) DEFINITIONS.—As used in this section, the term  
 19 ‘affiliate’ means any organization or entity that, directly  
 20 or indirectly, owns or controls, or is owned or controlled  
 21 by, or is under common ownership or control with, a local  
 22 exchange carrier. For purposes of this subsection, the  
 23 terms ‘own’, ‘owned’, and ‘ownership’ mean a direct or in-  
 24 direct equity interest (or equivalent thereof) of more than  
 25 5 percent of an organization or entity, or the right to more

1 than 5 percent of the gross revenues of an organization  
 2 or entity under a revenue sharing or royalty agreement,  
 3 or any substantial management or financial interest.”.

4 **TITLE VI—CUSTOMER CONTROL OVER**  
 5 **INFORMATION**

6 **SEC. 601. CUSTOMER INFORMATION PROTECTIONS.**

7 Title II of the Communications Act of 1934 (47  
 8 U.S.C. 201 et seq.), as amended by this Act, is further  
 9 amended by adding at the end the following new section:

10 **“SEC. 237. CUSTOMER INFORMATION REQUIREMENTS.**

11 “(a) CUSTOMER PROPRIETARY NETWORK INFORMA-  
 12 TION.—A local exchange carrier—

13 “(1) shall not, except as required by law or  
 14 upon the affirmative request of the customer to  
 15 which the information relates—

16 “(A) use customer proprietary network in-  
 17 formation in the providing of any service other  
 18 than (i) telephone exchange service or telephone  
 19 toll service, or (ii) a service necessary to or used  
 20 in the provision of telephone exchange service  
 21 or telephone toll service;

22 “(B) use customer proprietary network in-  
 23 formation in the identification or solicitation of  
 24 potential customers for any service other than

1 the service from which such information is de-  
2 rived;

3 ~~“(C) use such information in their provi-~~  
4 ~~sion of customer premises equipment; or~~

5 ~~“(D) disclose such information to any affil-~~  
6 ~~iate of such common carrier or any other per-~~  
7 ~~son that is not an employee of such carrier;~~

8 ~~“(2) shall disclose such information, upon af-~~  
9 ~~firmative written request by the customer, to any~~  
10 ~~person designated by the customer;~~

11 ~~“(3) shall, whenever such common carrier pro-~~  
12 ~~vides any aggregate information based on customer~~  
13 ~~proprietary network information or any data base or~~  
14 ~~other compilation of customer proprietary informa-~~  
15 ~~tion to any personnel of such common carrier, or~~  
16 ~~any affiliate of such common carrier, that are en-~~  
17 ~~gaged in providing any service that is not necessary~~  
18 ~~to the provision of telephone exchange service, or~~  
19 ~~that are engaged in the provision of customer prem-~~  
20 ~~ises equipment, or to any other person that is not~~  
21 ~~an employee or affiliate of such carrier, notify the~~  
22 ~~Commission of the availability of such aggregate or~~  
23 ~~compiled information and shall provide such aggre-~~  
24 ~~gate or compiled information on reasonable terms~~

1 and conditions to any other service or equipment  
2 provider upon reasonable request therefor; and

3 “(4) shall not discriminate between affiliated  
4 and unaffiliated service or equipment providers in  
5 providing access to, or in the use and disclosure of,  
6 individual and aggregate or compiled information  
7 made available consistent with this subsection.

8 “(b) RULE OF CONSTRUCTION.—This section shall  
9 not be construed to prohibit the disclosure of customer  
10 proprietary network information as necessary—

11 “(1) to render, bill, and collect for telephone ex-  
12 change service or telephone toll service;

13 “(2) to render, bill, and collect for any other  
14 telecommunications service that the customer has re-  
15 quested;

16 “(3) to protect the rights or property of the  
17 carrier; or

18 “(4) to protect users of any of those services  
19 and other carriers from fraudulent, abusive, or un-  
20 lawful use of or subscription to such service.

21 “(c) EXEMPTION PERMITTED.—The Commission  
22 may, by rule, exempt from the requirements of subsection  
23 (a) local exchange carriers that do not have 1,000,000 ag-  
24 gregate nationwide lines installed if the Commission deter-  
25 mines that such exemption is in the public interest or if



1 compliance with the requirements would impose an undue  
 2 economic burden on the carrier.

3       ~~“(d) DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-~~  
 4 ~~TION.—~~Notwithstanding subsections (a), (b), and (c), a  
 5 local exchange carrier that provides subscriber list infor-  
 6 mation to any affiliated or unaffiliated service provider or  
 7 person shall provide subscriber list information on a timely  
 8 and unbundled basis, under nondiscriminatory and reason-  
 9 able rates, terms, and conditions, to any person upon rea-  
 10 sonable request.

11       ~~“(e) AUTOMATIC NUMBER IDENTIFICATION SERV-~~  
 12 ~~ICES.—~~

13               ~~“(1) CONTRACT REQUIREMENTS.—~~Any common  
 14 carrier or affiliate of a common carrier providing  
 15 automatic number identification services to any per-  
 16 son shall provide such services under a contract or  
 17 tariff containing telephone subscriber information  
 18 requirements that comply with this subsection. Such  
 19 requirements shall—

20               ~~“(A) permit such person to use the tele-~~  
 21 ~~phone number and billing information provided~~  
 22 ~~pursuant to the automatic number identifica-~~  
 23 ~~tion service for billing and collection, routing,~~  
 24 ~~screening, and completion of the originating~~  
 25 ~~telephone subscriber’s call or transaction, or for~~

1 services directly related to the originating tele-  
2 phone subscriber's call or transaction;

3 ~~“(B) prohibit such person from reusing or~~  
4 ~~selling the telephone number or billing informa-~~  
5 ~~tion provided pursuant to the automatic num-~~  
6 ~~ber identification service without first orally (i)~~  
7 ~~notifying the originating telephone subscriber~~  
8 ~~and (ii) extending to such subscriber the option~~  
9 ~~to limit or prohibit such reuse or sale; and~~

10 ~~“(C) prohibit such person from disclosing,~~  
11 ~~except as permitted by subparagraphs (A) and~~  
12 ~~(B), any information derived from the auto-~~  
13 ~~matic number identification service for any pur-~~  
14 ~~pose other than—~~

15 ~~“(i) performing the services or trans-~~  
16 ~~actions that are the subject of the originat-~~  
17 ~~ing telephone subscriber's call,~~

18 ~~“(ii) ensuring network performance,~~  
19 ~~security, and the effectiveness of call deliv-~~  
20 ~~ery,~~

21 ~~“(iii) compiling, using, and disclosing~~  
22 ~~aggregate information, and~~

23 ~~“(iv) complying with applicable law or~~  
24 ~~legal process.~~

1           ~~“(2) EXCEPTION FOR ESTABLISHED CUS-~~  
2           ~~TOMERS.—~~The customer information requirements  
3           imposed under paragraph (1) shall not prevent a  
4           person to which automatic number identification  
5           services are provided from using—

6                       ~~“(A) the telephone number and billing~~  
7                       information provided pursuant to such  
8                       service, and

9                       ~~“(B) any information derived from~~  
10                      the automatic number identification serv-  
11                      ice, or from the analysis of the characteris-  
12                      tics of a telecommunications transmission,  
13           to offer, to any telephone subscriber with which such  
14           person has an established customer relationship, a  
15           product or service that is directly related to the  
16           products or service previously acquired by that cus-  
17           tomer from such person.

18           ~~“(3) ENFORCEMENT.—(A) Each common ear-~~  
19           rier shall receive and transmit to the Commission  
20           complaints concerning violations of the telephone  
21           subscriber information requirements imposed under  
22           paragraph (1). Each common carrier shall submit to  
23           the Commission, in such form as the Commission  
24           may require by regulation, reports on actions taken  
25           by the carrier to comply with this section.

1           ~~“(B) The Commission may, by rule or order, di-~~  
 2           ~~rect the termination of automatic number identifica-~~  
 3           ~~tion services to any person who has violated the tele-~~  
 4           ~~phone subscriber information requirements imposed~~  
 5           ~~under paragraph (1). For purposes of section~~  
 6           ~~503(b)(1)(B), violations of such requirements shall~~  
 7           ~~be considered to be a violation of a provision of this~~  
 8           ~~Act.~~

9           ~~“(4) EFFECTIVE DATE.—(A) Except as pro-~~  
 10          ~~vided in subparagraph (B), the requirements of this~~  
 11          ~~subsection shall apply to any automatic number~~  
 12          ~~identification service provided on or after one year~~  
 13          ~~after the date of enactment of this subsection.~~

14          ~~“(B) In the case of any automatic number iden-~~  
 15          ~~tification service provided under a contract entered~~  
 16          ~~into, or tariff taking effect, more than 90 days after~~  
 17          ~~the date of enactment of this subsection, the require-~~  
 18          ~~ments of this subsection shall apply to any auto-~~  
 19          ~~matic number identification service provided pursu-~~  
 20          ~~ant to such contract or tariff.~~

21          ~~“(f) DEFINITIONS.—As used in this section:~~

22          ~~“(1) The term ‘customer proprietary network~~  
 23          ~~information’ means—~~

24                  ~~“(A) information which (i) relates to the~~  
 25                  ~~quantity, technical configuration, type, destina-~~

tion, and amount of use of telephone exchange service or interexchange telephone service subscribed to by any customer of a telephone operating company, and (ii) is available to the telephone operating company by virtue of the telephone company-customer relationship;

“(B) information contained in the bills for telephone exchange service or interexchange telephone service received by a customer of a telephone operating company; and

“(C) such other information concerning the customer as is (i) available to the telephone operating company by virtue of the customer’s use of the company’s services, and (ii) specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest,

except that such term does not include subscriber list information.

“(2) The term ‘subscriber information’ means any information—

“(A) identifying the names of subscribers of a local exchange carrier and such subscribers’ telephone numbers, addresses, or advertising classifications, or any combination of such

1 names, numbers, addresses, or classifications;  
2 and

3 ~~“(B) that the carrier or an affiliate has~~  
4 ~~published or accepted for future publication.~~

5 ~~“(3) The term ‘aggregate information’ means~~  
6 ~~collective data that relates to a group or category of~~  
7 ~~services or customers, from which individual cus-~~  
8 ~~tomer identities or characteristics have been re-~~  
9 ~~moved.~~

10 ~~“(4) the term ‘automatic number identification’~~  
11 ~~means an access signaling protocol in common use~~  
12 ~~by common carriers that uses an identifying signal~~  
13 ~~associated with the use of a subscriber’s telephone to~~  
14 ~~provide billing information or other information to~~  
15 ~~the local exchange carrier and to any other inter-~~  
16 ~~connecting carriers.~~

17 ~~“(g) PROCEEDING REQUIRED.—Within 6 months~~  
18 ~~after the date of enactment of this section, the Commis-~~  
19 ~~sion shall commence a proceeding—~~

20 ~~“(1) to examine the impact of the integration~~  
21 ~~into interconnected communications networks of~~  
22 ~~wireless telephone, cable, satellite, and other tech-~~  
23 ~~nologies on the privacy rights and remedies of the~~  
24 ~~consumers of those technologies;~~

1           “(2) to examine the impact that the  
2           globalization of such integrated communications net-  
3           works has on the international dissemination of  
4           consumer information and the privacy rights and  
5           remedies to protect consumers;

6           “(3) to propose changes in the Commission’s  
7           regulations to ensure that the effect on consumer  
8           privacy rights is considered in the introduction of  
9           new telecommunications services and that the pro-  
10          tection of such privacy rights is incorporated as nec-  
11          essary in the design of such services or the rules reg-  
12          ulating such services;

13          “(4) to propose changes in the Commission’s  
14          regulations as necessary to correct any defects iden-  
15          tified pursuant to paragraph (1) in such rights and  
16          remedies; and

17          “(5) to prepare recommendations to the Con-  
18          gress for any legislative changes required to correct  
19          such defects.”.

## 20           **TITLE VII—MEDIA DIVERSITY**

### 21   **SEC. 701. REMOVAL OF BROADCAST STATION OWNERSHIP** 22           **RESTRICTIONS.**

23          Within one year after the date of enactment of this  
24   Act, the Commission shall, after a notice and comment  
25   proceeding, modify or remove such national and local own-

1 ership rules on radio and television broadcast stations as  
2 are necessary to ensure that broadcasters are able to com-  
3 pete fairly with other media providers while ensuring that  
4 the public receives information from a diversity of media  
5 sources

6 **SEC. 702. REVIEW OF STATUTORY OWNERSHIP RESTRIC-**  
7 **TION.**

8       Within one year after the date of enactment of this  
9 Act, the Commission shall review the ownership restriction  
10 in section 613(a)(1) and report to Congress whether or  
11 not such restriction continues to serve the public interest.

12 **703. REVIEW OF VIDEO NON-DUPLICATION AND SYN-**  
13 **DICATED EXCLUSIVITY RULES.**

14       Within one year after the date of enactment of this  
15 Act, the Commission shall complete a notice and comment  
16 proceeding to consider the applicability of the Commis-  
17 sion's rules regarding network non-duplication protection  
18 and syndicated exclusivity protection to other multi-  
19 channel video programming providers.

20 **SEC. 704. BROADCASTER PROVISION OF ADDITIONAL SERV-**  
21 **ICES.**

22       The Commission shall, after a notice and comment  
23 proceeding, prescribe regulations to permit broadcasters  
24 to make use of the broadcast spectrum that they are li-  
25 censed to use, for services that are related to the program-



1    ~~ming services which they are authorized to provide. To the~~  
 2    ~~extent that the broadcast licensee provides commercial~~  
 3    ~~services using broadcast spectrum, the Commission shall~~  
 4    ~~be authorized to collect from each licensee an amount~~  
 5    ~~equivalent to the amount that would have been paid if the~~  
 6    ~~license to provide such service has been subjected to com-~~  
 7    ~~petitive bidding under section 309(j) of the Communica-~~  
 8    ~~tions Act of 1934 (47 U.S.C. 309(j)). Such amounts shall~~  
 9    ~~be collected and distributed pursuant to such section~~  
 10    ~~309(j). Nothing shall be construed as relieving a broad-~~  
 11    ~~casting station from its obligation to serve the public inter-~~  
 12    ~~est, convenience, and necessity.~~

13    **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

14        (a) *SHORT TITLE OF ACT.*—This Act may be cited as  
 15    the “Communications Act of 1994”.

16        (b) *SHORT TITLE OF SUBTITLE A OF TITLE IV.*—Sub-  
 17    title A of title IV may be cited as the “Telecommunications  
 18    Equipment Research and Manufacturing Competition Act  
 19    of 1994”.

20        (c) *TABLE OF CONTENTS.*—

*Sec. 1. Short titles; table of contents.*

*Sec. 2. Findings.*

*Sec. 3. Effect on other law.*

*TITLE I—PROTECTION AND ADVANCEMENT OF UNIVERSAL SERVICE*

*Sec. 101. National policy goals.*

*Sec. 102. Universal service protection and advancement.*

*Sec. 103. Public rights-of-way.*

*Sec. 104. Public access.*

*TITLE II—TELECOMMUNICATIONS*

*Sec. 201. Infrastructure investment.*

*TITLE III—REGULATORY REFORM*

*Sec. 301. Definitions.*

*Sec. 302. Regulatory reform.*

*Sec. 303. Implementing regulations.*

*Sec. 304. State and local taxation of direct broadcast satellite services.*

*Sec. 305. Pole attachments.*

*Sec. 306. Carrier of last resort.*

*Sec. 307. Additional requirements for certain carriers in Alaska.*

*TITLE IV—AUTHORIZED ACTIVITIES OF BELL COMPANIES*

*Subtitle A—Telecommunications Equipment Research and Manufacturing  
Competition*

*Sec. 401. Findings.*

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*Sec. 403. Increased penalty for recordkeeping violations.*

*Sec. 404. Application of antitrust laws.*

*Subtitle B—Regulation of Alarm Services and Electronic Publishing by Bell  
Operating Companies*

*Sec. 421. Regulation of entry into alarm monitoring services.*

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*Subtitle C—Information Services and Payphone Services*

*Sec. 431. Provision of information services.*

*Sec. 432. Provision of payphone services.*

*Subtitle D—InterLATA Telecommunications Services*

*Sec. 441. InterLATA telecommunications services.*

*Sec. 442. Jurisdiction.*

*TITLE V—REGULATORY PARITY AMONG PROVIDERS OF CABLE  
SERVICE*

*Sec. 501. Provision of cable service by local exchange carriers and provision of  
telecommunications services by cable operators.*

*Sec. 502. Common carrier video platform.*

*Sec. 503. Jurisdiction of franchising authority.*

*TITLE VI—CUSTOMER CONTROL OVER INFORMATION*

*Sec. 601. Customer information protection.*

*TITLE VII—MEDIA DIVERSITY*

*Sec. 701. Review of broadcast rules.*

*Sec. 702. Television broadcaster provision of additional services.*

*Sec. 703. Video programming accessibility.*

TITLE VIII—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION  
OF TELECOMMUNICATIONS FACILITIES

- Sec. 801. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.*  
*Sec. 802. Obscene programming on cable television.*  
*Sec. 803. Broadcasting obscene language on radio.*  
*Sec. 804. Interception and disclosure of electronic communications.*  
*Sec. 805. Additional prohibition on billing for toll-free telephone calls.*  
*Sec. 806. Scrambling of cable channels for nonsubscribers.*  
*Sec. 807. Cable operator refusal to carry certain programs.*

TITLE IX—ADVANCED TELECOMMUNICATIONS NETWORK  
CAPABILITY

- Sec. 901. Advanced telecommunications network capability.*

1   **SEC. 2. FINDINGS.**

2       *The Congress makes the following findings:*

3           *(1) Congress has not passed comprehensive*  
 4       *changes to the Communications Act of 1934 since that*  
 5       *Act was originally passed.*

6           *(2) Congress must pass comprehensive commu-*  
 7       *nications legislation to promote the development and*  
 8       *growth of the national information superhighway.*

9           *(3) Changes in the telecommunications market-*  
 10       *place have made some of the provisions of the Com-*  
 11       *munications Act of 1934 obsolete, unnecessary, or in-*  
 12       *imical to advances in communications technologies*  
 13       *and services.*

14           *(4) Competition has emerged in many services*  
 15       *that were previously thought to be natural monopo-*  
 16       *lies, but the Communications Act of 1934 requires all*  
 17       *carriers to be regulated as if they were monopolies.*

1           (5) *As communications markets change, govern-*  
2           *ment must ensure that the public interest, conven-*  
3           *ience, and necessity are preserved.*

4           (6) *The public interest requires that universal*  
5           *service is protected and advanced, that new tele-*  
6           *communications technologies are deployed rapidly*  
7           *and equitably, and that access by schools, hospitals,*  
8           *public broadcasters, libraries, and museums to ad-*  
9           *vanced telecommunications services is assisted.*

10          (7) *Access to telecommunications services is fun-*  
11          *damental to safety of life and participation in a*  
12          *democratic society.*

13          (8) *Telecommunications networks make substan-*  
14          *tial use of public rights of way in real property and*  
15          *in spectrum frequencies, and carriers that make use*  
16          *of such public rights of way have an obligation to*  
17          *provide preferential rates to entities that provide sig-*  
18          *nificant public benefits.*

19          (9) *Advanced telecommunications services can*  
20          *enhance the quality of life and promote economic de-*  
21          *velopment and international competitiveness.*

22          (10) *Telecommunications infrastructure develop-*  
23          *ment is particularly crucial to the continued eco-*  
24          *nomie development of rural areas that may lack an*

1     *adequate industrial or service base for continued*  
2     *development.*

3             *(11) Advancements in the Nation's telecommuni-*  
4     *cations infrastructure will enhance the public welfare*  
5     *by helping to speed the delivery of new services, such*  
6     *as distance learning, remote medical sensing, and dis-*  
7     *tribution of health information.*

8             *(12) Infrastructure advancement can be assisted*  
9     *by joint planning and infrastructure sharing by car-*  
10    *riers and other providers of network facilities and*  
11    *services providing communications services.*

12            *(13) Increased competition in telecommuni-*  
13    *cations services can, if subject to appropriate safe-*  
14    *guards, encourage infrastructure development and*  
15    *have beneficial effects on the price, universal avail-*  
16    *ability, variety, and quality of telecommunications*  
17    *services.*

18            *(14) The emergence of competition in tele-*  
19    *communications services has already contributed, and*  
20    *can be expected to continue contributing, to the mod-*  
21    *ernization of the infrastructure.*

22            *(15) Competition in the long distance industry*  
23    *and the communications equipment market has*  
24    *brought about lower prices and higher quality serv-*  
25    *ices.*

1           (16) *Competition for local communications serv-*  
2           *ices has already begun to benefit the public; competi-*  
3           *tive access providers have deployed thousands of miles*  
4           *of optical fiber in their local networks; local exchange*  
5           *carriers have been prompted by competition to accel-*  
6           *erate the installation of optical fiber in their own net-*  
7           *works.*

8           (17) *Electric utilities, satellite carriers, and oth-*  
9           *ers are prepared to enter the local telephone market*  
10          *over the next few years.*

11          (18) *A diversity of telecommunications carriers*  
12          *enhances network reliability by providing redundant*  
13          *capacity, thereby lessening the impact of any network*  
14          *failure.*

15          (19) *Competition must proceed under rules that*  
16          *protect consumers and are fair to all telecommuni-*  
17          *cations carriers.*

18          (20) *All telecommunications carriers, including*  
19          *competitors to the telephone companies, should con-*  
20          *tribute to universal service and should make their net-*  
21          *works available for interconnection by others.*

22          (21) *Removal of all State and local barriers to*  
23          *entry into the telecommunications services market*  
24          *and provision of interconnection are warranted after*

1     *mechanisms to protect universal service and rules are*  
2     *established to ensure that competition develops.*

3             *(22) Increasing the availability of interconnec-*  
4     *tion and interoperability among the facilities of tele-*  
5     *communications carriers will help stimulate the devel-*  
6     *opment of fair competition among providers.*

7             *(23) The portability of telecommunications num-*  
8     *bers will eliminate a significant advantage held by*  
9     *traditional telephone companies over competitors in*  
10    *the provision of telecommunications services.*

11            *(24) Unreasonable restrictions on resale and*  
12    *sharing of telecommunications networks retard the*  
13    *growth of competition and restrict the diversity of*  
14    *services available to the public.*

15            *(25) Additional regulatory measures are needed*  
16    *to allow consumers in rural markets and noncompeti-*  
17    *tive markets the opportunity to benefit from high-*  
18    *quality telecommunications capabilities.*

19            *(26) Regulatory flexibility for existing providers*  
20    *of telephone exchange service is necessary to allow*  
21    *them to respond to competition.*

22            *(27) The Federal Communications Commission*  
23    *(referred to elsewhere in this Act as the “Commis-*  
24    *sion”)* and the States must have the flexibility to ad-

1     *just their regulations of each provider of telecommuni-*  
2     *cations services to serve the public interest.*

3             *(28) If the efforts of the private sector fail, the*  
4     *Commission should take steps to ensure network reli-*  
5     *ability and the development of network standards.*

6             *(29) Access to switched, digital telecommuni-*  
7     *cations service for all segments of the population pro-*  
8     *motes the core First Amendment goal of diverse infor-*  
9     *mation sources by enabling individuals and organiza-*  
10    *tions alike to publish and otherwise make information*  
11    *available in electronic form.*

12            *(30) The national welfare will be enhanced if*  
13    *community newspapers are provided ease of entry*  
14    *into the operation of information services dissemi-*  
15    *nated through electronic means primarily to cus-*  
16    *tomers in the localities served by such newspapers at*  
17    *rates that are not higher, on a perunit basis, than the*  
18    *rates charged for such services to any other electronic*  
19    *publisher.*

20            *(31) A clear national mandate is needed for full*  
21    *participation in access to telecommunications net-*  
22    *works and services by individuals with disabilities.*

23            *(32) The obligations of telecommunications car-*  
24    *riers include the duty to furnish telecommunications*  
25    *services which are designed to be fully accessible to in-*



1        *dividuals with disabilities in accordance with such*  
2        *standards as the Commission may prescribe.*

3            (33) *Permitting the Bell operating companies to*  
4        *enter the manufacturing market will stimulate great-*  
5        *er research and development, create more jobs, and*  
6        *enhance our international competitiveness.*

7            (34) *The Bell operating companies should not be*  
8        *permitted to enter the market for other long distance*  
9        *services until they have eliminated the barriers to*  
10       *competition and interconnection.*

11           (35) *Safeguards are necessary to ensure that the*  
12       *Bell operating companies do not abuse their market*  
13       *power over local telephone service to discriminate*  
14       *against competitors in the markets for electronic pub-*  
15       *lishing, alarm services, and other information serv-*  
16       *ices.*

17           (36) *Amending the legal barriers to the provision*  
18       *of video programming by telephone companies in*  
19       *their service areas will encourage competition to exist-*  
20       *ing cable television service providers and encourage*  
21       *telephone companies to upgrade their telecommuni-*  
22       *cations facilities to enable them to deliver video pro-*  
23       *gramming, as long as telephone companies and cable*  
24       *companies are prohibited from buying or joint ven-*

1        *turing with each other in their service areas (except*  
 2        *for certain rural areas).*

3            *(37) As communications technologies and serv-*  
 4        *ices proliferate, consumers must be given the right to*  
 5        *control information concerning their use of those tech-*  
 6        *nologies and services.*

7            *(38) As competition in the media increases, the*  
 8        *Commission should reexamine the need for national*  
 9        *and local ownership limits on broadcast stations, con-*  
 10       *sistent with the need to maintain diversity of infor-*  
 11       *mation sources.*

12    **SEC. 3. EFFECT ON OTHER LAW.**

13        *(a) ANTITRUST LAWS.—Except as provided in sub-*  
 14       *section (b), nothing in this Act shall be construed to modify,*  
 15       *impair, or supersede the applicability of any antitrust law.*

16        *(b) MODIFICATION OF FINAL JUDGMENT.—This Act*  
 17       *shall supersede the Modification of Final Judgment to the*  
 18       *extent that it is inconsistent with this Act.*

19                    **TITLE I—PROTECTION AND**  
 20        **ADVANCEMENT OF UNIVERSAL SERVICE**

21    **SEC. 101. NATIONAL POLICY GOALS.**

22        *Section 1 of the Communications Act of 1934 (47*  
 23       *U.S.C. 151) is amended by inserting “(a)” before “For the*  
 24       *purpose of” and by adding at the end the following new*  
 25       *subsection:*

1       “(b) *The primary objective of United States national*  
2 *and international communications policy shall be to protect*  
3 *the public interest. The public interest shall include the fol-*  
4 *lowing:*

5               “(1) *To ensure that every person has access to*  
6 *reasonably evolving telecommunications services at*  
7 *just, reasonable, and affordable rates taking into ac-*  
8 *count advances in telecommunications and informa-*  
9 *tion technology.*

10              “(2) *To promote the development and widespread*  
11 *availability of new technologies and advanced tele-*  
12 *communications and information services to all per-*  
13 *sons regardless of location or disability.*

14              “(3) *To ensure that consumers have access to di-*  
15 *verse sources of information.*

16              “(4) *To promote learning, education, and knowl-*  
17 *edge.*

18              “(5) *To ensure reasonably comparable services at*  
19 *reasonably comparable rates for consumers in urban*  
20 *and rural areas.*

21              “(6) *To allow each individual the opportunity to*  
22 *contribute to the free flow of ideas and information*  
23 *through telecommunications and information services.*

1           “(7) To maximize the contribution of commu-  
 2           nications and information technologies and services to  
 3           economic welfare and quality of life.

4           “(8) To protect each individual’s right to control  
 5           the use of information concerning his or her use of  
 6           telecommunications services.

7           “(9) To provide secure and reliable services for  
 8           Federal, State, and local government emergency re-  
 9           sponse.

10          “(10) To promote democracy.

11          “(11) To make available so far as possible, to all  
 12          the people of the United States, regardless of race,  
 13          color, national origin, income, residence in a rural or  
 14          urban area, or disability, high capacity two-way  
 15          communications networks capable of enabling users to  
 16          originate and receive affordable and accessible high  
 17          quality voice, data, graphics, video, and other types  
 18          of telecommunications services.”.

19   **SEC. 102. UNIVERSAL SERVICE PROTECTION AND ADVANCE-**  
 20                                   **MENT.**

21          (a) *IN GENERAL.*—Title II of the Communications Act  
 22          of 1934 (47 U.S.C. 201 et seq.) is amended by inserting  
 23          after section 201 the following new section:

1 **“SEC. 201A. UNIVERSAL SERVICE PROTECTION AND AD-**  
2 **VANCEMENT.**

3 “(a) *UNIVERSAL SERVICE PRINCIPLES.—The Joint*  
4 *Board and the Commission shall base policies for the preser-*  
5 *vation and advancement of universal service on the follow-*  
6 *ing principles:*

7 “(1) *Quality services are to be provided at just,*  
8 *reasonable, and affordable rates.*

9 “(2) *Access to advanced telecommunications and*  
10 *information services should be provided in all regions*  
11 *of the Nation.*

12 “(3) *Consumers in rural and high cost areas*  
13 *should have access to telecommunications and infor-*  
14 *mation services, including interexchange services, rea-*  
15 *sonably comparable to those services provided in*  
16 *urban areas.*

17 “(4) *Consumers in rural and high cost areas*  
18 *should have access to telecommunications and infor-*  
19 *mation services at rates that are reasonably com-*  
20 *parable to rates charged for similar services in urban*  
21 *areas.*

22 “(5) *Citizens in rural and high cost areas should*  
23 *have access to the benefits of advanced telecommuni-*  
24 *cations and information services for health care, edu-*  
25 *cation, economic development, and other public pur-*  
26 *poses.*

1           “(6) There should be a coordinated Federal-State  
2           universal service system to preserve and advance uni-  
3           versal service.

4           “(7) Consumers should be permitted to exercise  
5           choice among telecommunications carriers offering  
6           universal service.

7           “(8) Consumers of universal service should have  
8           the right to control the use of information concerning  
9           their individual use of such service.

10          “(b) DEFINITION.—Universal service is an evolving  
11          package of services which includes any telecommunications  
12          and information services which the Commission, based on  
13          recommendations from the public, Congress, and the Fed-  
14          eral-State Joint Board periodically convened under section  
15          102 of the Communications Act of 1994, and taking into  
16          account advances in telecommunications and information  
17          technologies and services, determines should be provided at  
18          just, reasonable, and affordable rates to all Americans, in-  
19          cluding those in rural and high-cost areas and those with  
20          disabilities, to enable them to participate effectively in the  
21          economic, academic, medical, and democratic processes of  
22          the Nation. At a minimum, universal service shall include  
23          access to any telecommunications and information services  
24          that the Commission determines have, through the operation

1 *of market choices by customers, been subscribed to by a sub-*  
 2 *stantial majority of residential customers.*

3       “(c) *ALL TELECOMMUNICATIONS PROVIDERS CON-*  
 4 *TRIBUTE.—Every telecommunications carrier engaged in*  
 5 *intrastate, interstate, or foreign communication by wire or*  
 6 *radio shall contribute to the preservation and advancement*  
 7 *of universal service. The Commission may, by rule, require*  
 8 *any other telecommunications provider to contribute to the*  
 9 *preservation and advancement of universal service, if the*  
 10 *public interest so requires. Such contributions shall be in*  
 11 *the manner determined by the Commission, after referral*  
 12 *to the Joint Board periodically convened under section 102*  
 13 *of the Communications Act of 1994, and shall be on an eq-*  
 14 *uitable and non-discriminatory basis. The Commission and*  
 15 *the States shall, through the Universal Service Fund estab-*  
 16 *lished under subsection (d), collect only the amount of con-*  
 17 *tributions needed to meet the amount of support payments*  
 18 *reasonably necessary to preserve and advance universal*  
 19 *service, as defined by the Commission under subsection (b).*

20       “(d) *UNIVERSAL SERVICE FUND.—The Commission*  
 21 *shall establish within 18 months after the date of enactment*  
 22 *of the Communications Act of 1994, after referral to the*  
 23 *Federal-State Joint Board convened under section 102 of*  
 24 *that Act, a Universal Service Fund, controlled by an inde-*  
 25 *pendent administrator, which shall have specific and pre-*

1 dictable Federal and State mechanisms to provide adequate  
2 and sustainable support for maintaining and advancing  
3 universal service. The Fund shall be the primary repository  
4 of universal service contributions, and shall be responsible  
5 for the collection of universal service contributions and the  
6 distribution of support payments, based on rules established  
7 by the Commission and the States to implement this section.

8       “(e) *FEDERAL-STATE PARTNERSHIP.*—A State may  
9 adopt regulations to provide for additional definitions,  
10 mechanisms, and standards to preserve and advance uni-  
11 versal service within such State, and to implement any  
12 Joint Board recommendation made under section 102 of the  
13 Communications Act of 1994, provided that such State reg-  
14 ulations are not inconsistent, or are modified to be made  
15 not inconsistent, within one year after the effective date of  
16 regulations prescribed by the Commission to implement this  
17 section.

18       “(f) *ELIGIBILITY FOR UNIVERSAL SERVICE SUP-*  
19 *PORT.*—Only telecommunications carriers which are des-  
20 ignated as a carrier of last resort under section 214(d) shall  
21 be eligible to receive support payments from the Universal  
22 Service Fund established under this section. The Commis-  
23 sion, after referral to the Joint Board periodically convened  
24 under section 102 of the Communications Act of 1994, shall  
25 establish appropriate regulatory mechanisms to ensure that



1 *support payments accurately reflect the amount reasonably*  
2 *necessary to preserve and advance universal service.*

3       “(g) *RATE ADJUSTMENTS.*—*The Commission shall,*  
4 *after referral to the Joint Board established under section*  
5 *102 of the Communications Act of 1994, establish guidelines*  
6 *to be implemented by the States to allow for rate adjust-*  
7 *ments by existing providers of universal service necessary*  
8 *to implement the universal service rules approved by the*  
9 *Commission pursuant to this section. Such guidelines shall*  
10 *provide for—*

11               “(1) *the development and approval of transition*  
12 *plans for up to 2 years, or 4 years in the case of*  
13 *small telecommunications carriers;*

14               “(2) *compensation for services not included in*  
15 *the definition of universal service by the Commission,*  
16 *but required under State law; and*

17               “(3) *expedited implementation by States of any*  
18 *changes required by this section.*

19       “(h) *INTEREXCHANGE SERVICE.*—*The Commission*  
20 *shall ensure that the rates charged by providers of*  
21 *interexchange telecommunications service to consumers in*  
22 *rural and high cost areas are maintained at levels no higher*  
23 *than those charged by each such provider to its consumers*  
24 *in urban areas.*

1       “(i) *SUBSIDY OF COMPETITIVE SERVICES PROHIB-*  
2 *ITED.*—Telecommunications carriers shall not be permitted  
3 to subsidize competitive services from revenues obtained  
4 from services that are not competitive. The Commission,  
5 after referral to the Joint Board established under section  
6 102 of the Communications Act of 1994, shall establish cost  
7 allocation rules and guidelines to ensure that services in-  
8 cluded in the definition of universal service bear no more  
9 than a reasonable share (and may, in the public interest,  
10 bear less than or none of such share) of the joint and com-  
11 mon costs of facilities used to provide such services.

12       “(j) *EFFECTIVE DATE.*—The provisions of subsections  
13 (c), (d), (e), (f), and (g) of this section shall take effect 18  
14 months after the date of enactment of the Communications  
15 Act of 1994.”.

16       (b) *FEDERAL-STATE JOINT BOARD ON UNIVERSAL*  
17 *SERVICE.*—

18               (1) *Within one month of the date of enactment*  
19 *of this Act, the Commission shall institute and refer*  
20 *to a Federal-State Joint Board under section 410(c)*  
21 *of the Communications Act of 1934 a proceeding to*  
22 *recommend rules regarding the implementation of sec-*  
23 *tion 201A of that Act, including the definition of uni-*  
24 *versal service. Such Joint Board shall, after notice*  
25 *and public comment, make its recommendations to*

1       *the Commission no later than nine months after the*  
2       *date of enactment of this Act.*

3           (2) *The Commission shall periodically, but no*  
4       *less than once every 6 years, institute and refer to a*  
5       *Federal-State Joint Board under section 410(c) of the*  
6       *Communications Act of 1934 a proceeding to review*  
7       *the implementation of section 201A of that Act and*  
8       *to make new recommendations within 9 months of the*  
9       *date such Joint Board convened, if necessary, with re-*  
10       *spect to any modifications or additions that may be*  
11       *needed. As part of any such proceeding the Joint*  
12       *Board shall review the definition of, and adequacy of*  
13       *support for, universal service and shall evaluate the*  
14       *extent to which universal service has been protected*  
15       *and advanced.*

16       (c) *COMMISSION ACTION.—The Commission shall ini-*  
17       *tiate a single proceeding to implement recommendations*  
18       *from the initial Joint Board required by subsection (b) and*  
19       *shall complete such proceeding within 18 months of the date*  
20       *of enactment of this Act. Thereafter, the Commission shall*  
21       *complete any proceeding to implement recommendations*  
22       *from any further Joint Board required under subsection (b)*  
23       *within 9 months of receiving such recommendations.*

24       (d) *SEPARATIONS RULES.—Nothing in the amend-*  
25       *ments made by this Act to the Communications Act of 1934*

1 *shall affect the Commission's separations rules for local ex-*  
 2 *change or interexchange carriers in effect on the date of en-*  
 3 *actment of this Act.*

4 (e) *CONFORMING AMENDMENT.*—Section 332(c)(1)(A)  
 5 of the Communications Act of 1934 (47 U.S.C.  
 6 332(c)(1)(A)) is amended by inserting “201A, 201B, 201C”  
 7 after “section 201,”.

8 **SEC. 103. PUBLIC RIGHTS-OF-WAY.**

9 (a) *IN GENERAL.*—Title II of the Communications Act  
 10 of 1934 (47 U.S.C. 201 et seq.) is amended by inserting  
 11 after section 201A the following new section:

12 **“SEC. 201B. PUBLIC RIGHTS-OF-WAY.**

13 “(a) *REQUIREMENT FOR RESERVED CAPACITY.*—  
 14 Within 2 years after the enactment of the Communications  
 15 Act of 1994, the Commission shall promulgate regulations  
 16 to require owners and operators of telecommunications net-  
 17 works to reserve, for public uses, up to 5 percent of the ca-  
 18 pacity on such networks used for the delivery of information  
 19 services, for use by eligible entities at incremental cost based  
 20 rates for the delivery of information services to the general  
 21 public. The capacity shall be reserved in exchange for the  
 22 use of public rights-of-way accorded telecommunications  
 23 networks. The capacity shall be allocated pursuant to regu-  
 24 lations promulgated by the Commission and State authori-  
 25 ties. The owner or operator of any affected telecommuni-

1 *cations network shall have no control over, and no liability*  
2 *for, the communications content of such capacity.*

3 *“(b) RESERVATION OF CAPACITY.—*

4 *“(1) AMOUNT OF CAPACITY TO BE RESERVED.—*

5 *The Commission shall determine on the record, after*  
6 *notice and opportunity for comment, the appropriate*  
7 *amount of capacity to be reserved on each tele-*  
8 *communications network. In making such a deter-*  
9 *mination, the Commission shall consider the type of*  
10 *technology used by the network, barriers to accessing*  
11 *the network, existing set-aside requirements for broad-*  
12 *cast spectrum, existing requirements under sections*  
13 *335, 611, and 615, the public’s right to receive ade-*  
14 *quate compensation for use of public rights-of-way,*  
15 *and such other factors as the Commission considers*  
16 *appropriate.*

17 *“(2) TEMPORARY REDUCTIONS.—If the Commis-*  
18 *sion determines that any portion of the amount of ca-*  
19 *capacity that a telecommunications network is required*  
20 *to reserve under this section will go unused, the Com-*  
21 *mission may temporarily reduce the reserved amount*  
22 *by such unused portion. During the period when the*  
23 *reserved capacity of a telecommunications network is*  
24 *temporarily reduced, an eligible entity described in*  
25 *subsection (c) may request use of any of the portion*

1       *by which such reserved capacity was reduced and the*  
2       *Commission shall act promptly upon such request.*

3           “(3) *QUALITY.*—*The quality of telecommuni-*  
4       *cations capacity reserved for public uses under this*  
5       *section shall be equivalent to the best quality of avail-*  
6       *able capacity of the affected telecommunications net-*  
7       *work in all respects, including accessibility, channel*  
8       *positioning, interconnection access rights, network ca-*  
9       *pabilities, and such other factors as the Commission*  
10       *considers appropriate.*

11           “(4) *ESTABLISHMENT OF RATES FOR ELIGIBLE*  
12       *ENTITIES ON OPEN SYSTEMS.*—*If the Commission de-*  
13       *termines on the record after notice and opportunity*  
14       *for comment that a telecommunications network has*  
15       *clearly sufficient open architecture, capacity, and*  
16       *nondiscriminatory access terms to ensure access by el-*  
17       *igible entities described in subsection (c), the Commis-*  
18       *sion shall determine that the obligation to reserve a*  
19       *certain amount of capacity imposed under this sub-*  
20       *section is not applicable. This paragraph shall not af-*  
21       *fect the requirement to make capacity available to eli-*  
22       *gible entities at incremental cost based rates.*

23           “(c) *ALLOCATION OF CAPACITY.*—

1           “(1) *ELIGIBLE ENTITIES.*—The following entities  
2           are eligible for access to the capacity reserved under  
3           this section:

4                   “(A) *Elementary and secondary schools as*  
5                   *defined in section 1471 of the Elementary and*  
6                   *Secondary Education Act of 1965 (20 U.S.C.*  
7                   *2891), and institutions of higher education as*  
8                   *defined in section 1201 of the Higher Education*  
9                   *Act of 1965 (20 U.S.C. 2891).*

10                   “(B) *Public telecommunications entities.*

11                   “(C) *Public and nonprofit libraries.*

12                   “(D) *Nonprofit organizations described in*  
13                   *section 501(c)(3) of the Internal Revenue Code of*  
14                   *1986 that are formed for the purpose of provid-*  
15                   *ing nondiscriminatory public access to non-*  
16                   *commercial educational, informational, cultural,*  
17                   *civic, or charitable services.*

18           “(2) *TERMS AND CONDITIONS OF ACCESS.*—Such  
19           eligible entities shall have access to such capacity for  
20           the provision of educational, informational, cultural,  
21           civic, or charitable services directly to the general  
22           public. Telecommunications capacity allocated pursu-  
23           ant to this section shall not be sold, resold, or other-  
24           wise transferred in consideration for money or any  
25           other thing of value.

1           “(3) *ALLOCATION.*—*The Commission and the*  
2           *States shall determine appropriate mechanisms and*  
3           *guidelines for allocating such capacity.*

4           “(d) *DEFINITIONS.*—*As used in this section:*

5           “(1) *The term ‘telecommunications network’*  
6           *means any group of facilities that has been granted*  
7           *the right to occupy any public right-of-way and that*  
8           *is used to transmit or carry information services, in-*  
9           *cluding video services, to the general public, and that*  
10           *provides the consumer or end-user the opportunity to*  
11           *choose from a range of information services that are*  
12           *available contemporaneously to the general public.*  
13           *Neither terrestrial radio or television broadcast sta-*  
14           *tions licensed under title III, nor cable systems subject*  
15           *to sections 611 and 615, shall be considered to be tele-*  
16           *communications networks.*

17           “(2) *The term ‘public right-of-way’ means any*  
18           *right-of-way, including use of the electromagnetic*  
19           *spectrum, that is held or otherwise controlled by Fed-*  
20           *eral, State, or local governments on behalf of the gen-*  
21           *eral public, and is used in the transmission or car-*  
22           *riage of telecommunications.*

23           “(3) *The term ‘incremental cost based rates’*  
24           *means the lowest rate that is consistent with the long*  
25           *run incremental cost or out-of-pocket cost, whichever*



1        *is lower, of telecommunications networks in offering*  
 2        *technically similar commercial services. These rates*  
 3        *shall be no more than the directly attributable cost of*  
 4        *the service, and in no event shall they contain a con-*  
 5        *tribution to coverage of the joint or common costs of*  
 6        *the provider.”.*

7        **SEC. 104. PUBLIC ACCESS.**

8        *(a) AMENDMENT OF COMMUNICATIONS ACT.—Title II*  
 9        *of the Communications Act of 1934 (47 U.S.C. 201 et seq.),*  
 10        *as amended by this Act, is further amended by inserting*  
 11        *after section 201B the following new section:*

12        **“SEC. 201C. PUBLIC ACCESS.**

13        *“(a) PUBLIC FACILITIES.—*

14                *“(1) A telecommunications carrier designated as*  
 15        *a carrier of last resort under section 214(d) shall,*  
 16        *upon a bona fide request, provide universal service to*  
 17        *any public or non-profit—*

18                *“(A) elementary and secondary school, as*  
 19        *defined in section 1471 of the Elementary and*  
 20        *Secondary Education Act (20 U.S.C. 1141);*

21                *“(B) library;*

22                *“(C) health care facility;*

23                *“(D) museum (including a zoo or aquar-*  
 24        *ium);*

25                *“(E) public broadcast station; and*

1     *any member of such other classes of public institu-*  
 2     *tional telecommunications users as the Commission*  
 3     *may identify, based on the public interest, that con-*  
 4     *tribute in a significant way to the public's quality of*  
 5     *life.*

6             *“(2) The Commission may, in the public inter-*  
 7     *est, provide for separate definitions of universal serv-*  
 8     *ice under subsection 201A(c) for application only to*  
 9     *those public institutional telecommunications users to*  
 10    *which this section applies.*

11            *“(3) The Commission shall include the amount*  
 12    *of support payments reasonably necessary to provide*  
 13    *universal service to public institutional telecommuni-*  
 14    *cations users to which this section applies in the uni-*  
 15    *versal service support mechanisms required under sec-*  
 16    *tion 201A.*

17            *“(b) ADVANCED SERVICES.—The Commission shall es-*  
 18    *tablish rules—*

19            *“(1) to enhance, to the extent technically feasible*  
 20    *and economically reasonable, the availability of ad-*  
 21    *vanced telecommunications and information services*  
 22    *to all public and non-profit elementary and second-*  
 23    *ary school classrooms, health care facilities, libraries,*  
 24    *museums (including zoos and aquariums), public*  
 25    *broadcast stations, and any other class of public in-*

1        *stitutional telecommunications users identified by the*  
2        *Commission under subsection (a);*

3            *“(2) to require preferential rates under sub-*  
4        *section (c);*

5            *“(3) to ensure that appropriate functional re-*  
6        *quirements or performance standards, or both, includ-*  
7        *ing interoperability standards, are established for*  
8        *telecommunications carriers that connect such public*  
9        *institutional telecommunications users with the pub-*  
10       *lic switched network;*

11           *“(4) to define the circumstances under which a*  
12        *telecommunications carrier may be required to con-*  
13        *nect its network to such public institutional tele-*  
14        *communications users; and*

15           *“(5) to address such other matters as the Com-*  
16        *mission may determine.*

17        *“(c) PREFERENTIAL RATES.—Notwithstanding sec-*  
18        *tions 202 and 230, the rules promulgated under subsection*  
19        *(b) shall require telecommunications carriers to offer spe-*  
20        *cific telecommunications and information services, includ-*  
21        *ing advanced services, at a preferential rate to some or all*  
22        *of the public institutional telecommunications users to*  
23        *which this section applies.*

24        *“(d) RESTRICTION.—Public institutional tele-*  
25        *communications users receiving universal service or services*

1 *at a preferential rate under this section shall be prohibited*  
 2 *from reselling such service, or from aggregating tele-*  
 3 *communications services under section 226.”.*

4 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
 5 *section (a) shall take effect 2 years after the date of enact-*  
 6 *ment of this Act.*

7 (c) *RULEMAKING.*—*The Commission shall complete*  
 8 *and rulemaking and prescribe regulations to implement the*  
 9 *provisions of sections 201B and 201C of the Communica-*  
 10 *tions Act of 1934 within 2 years after the date of enactment*  
 11 *of this Act.*

## 12 ***TITLE II—TELECOMMUNICATIONS***

### 13 ***INVESTMENT***

#### 14 ***SEC. 201. INFRASTRUCTURE INVESTMENT.***

15 (a) *IN GENERAL.*—*Title II of the Communications Act*  
 16 *of 1934 (47 U.S.C. 201 et seq.) is amended by inserting*  
 17 *after section 228 the following new section:*

#### 18 ***“SEC. 229. INFRASTRUCTURE INVESTMENT.***

19 *“(a) RURAL MARKETS AND NONCOMPETITIVE MAR-*  
 20 *KETS.—To the extent possible, consumers in rural markets*  
 21 *and noncompetitive markets shall have access to high qual-*  
 22 *ity interoperable telecommunications network facilities and*  
 23 *capabilities which—*

24 *“(1) provide subscribers with sufficient inter-*  
 25 *active bi-directional network capacity to allow access*

1       to information services that provide a combination of  
2       voice, data, image, and video; and

3               “(2) are widely available at just, reasonable, af-  
4       fordable, and nondiscriminatory rates.

5       “(b) *FULL EFFECTUATION.*—The Commission shall  
6       have the authority to pre-empt any State or local statute  
7       or regulation, or other State or local legal requirement, ex-  
8       cept as provided in section 230(k), that prevents the full  
9       effectuation of the goal set forth in subsection (a).

10       “(c) *TELECOMMUNICATIONS NETWORK STANDARDS*  
11       *AND PLANNING.*—

12               “(1) *TELECOMMUNICATIONS NETWORK STAND-*  
13       *ARDS.*—

14               “(A) *INTERCONNECTION AND INTEROPER-*  
15       *ABILITY STANDARDS.*—The Commission shall en-  
16       courage telecommunications carriers and tele-  
17       communications equipment manufacturers to de-  
18       velop standards to ensure interconnection, inter-  
19       operability, and reliability of telecommuni-  
20       cations networks.

21               “(B) *INDUSTRY ASSISTANCE.*—The Commis-  
22       sion shall, when necessary, establish deadlines,  
23       create incentives, or use other mechanisms to as-  
24       sist the industry to develop and implement such  
25       standards.

1           “(C) *COMMISSION AUTHORITY TO ESTAB-*  
2           *LISH STANDARDS.*—*The Commission may, after*  
3           *notice and opportunity for comment, establish*  
4           *standards only if industry participants fail to*  
5           *reach agreement.*

6           “(2) *NETWORK PLANNING.*—

7           “(A) *REGULATIONS ON JOINT ACTION.*—*The*  
8           *Commission shall prescribe regulations that per-*  
9           *mit joint telecommunications network planning,*  
10          *design, and implementation among all tele-*  
11          *communications carriers, cable television compa-*  
12          *nies, railroads, and electric, gas, water, and*  
13          *other utilities in the same geographic area.*

14          “(B) *INFORMATION DISCLOSURE PROCE-*  
15          *DURES.*—*The Commission and the States shall*  
16          *prescribe regulations establishing procedures to*  
17          *ensure that—*

18               “(i) *telecommunications carriers on*  
19               *reasonable request make available timely in-*  
20               *formation to other such carriers, informa-*  
21               *tion service providers, other infrastructure*  
22               *providers, and other users in the same geo-*  
23               *graphic area about the deployment of tele-*  
24               *communications equipment, including soft-*  
25               *ware integral to such telecommunications*

1           *equipment, including upgrades that will*  
2           *materially affect the ability of a tele-*  
3           *communications carrier, information serv-*  
4           *ice provider, infrastructure provider, or*  
5           *other user to interconnect or interoperate in*  
6           *the same geographic area;*

7           “(ii) *telecommunications carriers are*  
8           *not required to share information required*  
9           *under clause (i) with anyone, including*  
10           *carriers with whom they directly compete,*  
11           *except as may be necessary to meet the*  
12           *interconnection and interoperability re-*  
13           *quirements set forth in this paragraph; and*

14           “(iii) *the recipient of any information*  
15           *described in clause (i) uses it only for its*  
16           *own interconnection and interoperability.*

17           “(C) *DEFINITION OF INFRASTRUCTURE PRO-*  
18           *VIDERS.—For purposes of this section, the term*  
19           *‘infrastructure provider’ means any entity, such*  
20           *as a railroad, electric, gas, water, or other util-*  
21           *ity, that builds and maintains an infrastructure*  
22           *and makes it available by lease or other arrange-*  
23           *ment to one or more telecommunications car-*  
24           *riers, but which is not itself a telecommuni-*  
25           *cations carrier.*

1           “(3) *INFRASTRUCTURE SHARING.*—

2                   “(A) *REGULATIONS REQUIRED.*—*The Com-*  
3                   *mission shall prescribe, within one year after the*  
4                   *date of enactment of the Communications Act of*  
5                   *1994, regulations that require local exchange car-*  
6                   *riers that were subject to Part 69 of the Commis-*  
7                   *sion’s rules on or before that date to make avail-*  
8                   *able to any qualifying carrier such public*  
9                   *switched network infrastructure, technology, in-*  
10                  *formation, and telecommunications facilities and*  
11                  *functions as may be requested by such qualifying*  
12                  *carrier for the purpose of enabling such qualify-*  
13                  *ing carrier to provide telecommunications serv-*  
14                  *ices, or to provide access to information services,*  
15                  *in the service area in which such qualifying car-*  
16                  *rier has requested and obtained designation as a*  
17                  *carrier of last resort under section 214(d).*

18                  “(B) *QUALIFYING CARRIER.*—*For the pur-*  
19                  *poses of this paragraph, the term ‘qualifying car-*  
20                  *rier’ means a telecommunications carrier*  
21                  *which—*

22                       “(i) *lacks economies of scale or scope,*  
23                       *as determined in accordance with regula-*  
24                       *tions prescribed by the Commission pursu-*  
25                       *ant to this paragraph; and*



1           “(ii) is a common carrier which offers  
 2           telephone exchange service, telephone ex-  
 3           change access service, and any other service  
 4           that is within the definition of universal  
 5           service, to all consumers without preference  
 6           throughout the service area for which such  
 7           carrier has been designated as a carrier of  
 8           last resort under section 214(d).

9           “(C) TERMS AND CONDITIONS OF REGULA-  
 10          TIONS.—The regulations prescribed by the Com-  
 11          mission pursuant to this paragraph shall—

12           “(i) not require a local exchange car-  
 13           rier to which this paragraph applies to take  
 14           any action that is economically unreason-  
 15           able or that is contrary to the public inter-  
 16           est;

17           “(ii) permit, but shall not require, the  
 18           joint ownership or operation of public  
 19           switched network infrastructure and services  
 20           by or among such local exchange carrier  
 21           and a qualifying carrier;

22           “(iii) ensure that such local exchange  
 23           carrier shall not be treated by the Commis-  
 24           sion or any State commission as a common  
 25           carrier for hire or as offering common car-

1 *rier services with respect to any infrastruc-*  
2 *ture, technology, information, facilities, or*  
3 *functions made available to a qualifying*  
4 *carrier in accordance with regulations is-*  
5 *ssued pursuant to this paragraph;*

6 *“(iv) ensure that such local exchange*  
7 *carrier makes such infrastructure, tech-*  
8 *nology, information, facilities, or functions*  
9 *available to a qualifying carrier on just and*  
10 *reasonable terms and conditions that per-*  
11 *mits such qualifying carrier to fully benefit*  
12 *from the economies of scale and scope of*  
13 *such local exchange carrier, as determined*  
14 *in accordance with guidelines prescribed by*  
15 *the Commission in regulations issued pur-*  
16 *suant to this paragraph;*

17 *“(v) establish conditions that promote*  
18 *cooperation between local exchange carriers*  
19 *to which this paragraph applies and quali-*  
20 *fying carriers;*

21 *“(vi) not require a local exchange car-*  
22 *rier to which this paragraph applies to en-*  
23 *gage in any infrastructure sharing agree-*  
24 *ment for any services or access which are to*  
25 *be provided or offered to consumers by the*

1           *qualifying carrier in such local exchange*  
 2           *carrier's telephone exchange service area;*  
 3           *and*

4           “(vii) *require that such local exchange*  
 5           *carrier file with the Commission or State*  
 6           *commission, for public inspection, any tar-*  
 7           *iffs, contracts, or other arrangements show-*  
 8           *ing the rates, terms and conditions under*  
 9           *which such carrier is making available pub-*  
 10          *lic switched network infrastructure and*  
 11          *functions under this paragraph.*

12          “(D) *INFORMATION CONCERNING DEPLOY-*  
 13          *MENT OF NEW SERVICES AND EQUIPMENT.—A*  
 14          *local exchange carrier to which this paragraph*  
 15          *applies that has entered into an infrastructure*  
 16          *sharing agreement under this paragraph shall*  
 17          *provide to each party to such agreement timely*  
 18          *information on the planned deployment of tele-*  
 19          *communications services and equipment, includ-*  
 20          *ing any software or upgrades of software integral*  
 21          *to the use or operation of such telecommuni-*  
 22          *cations equipment.*

23          “(d) *DISABILITY ACCESS.—*

24          “(1) *NETWORK SERVICES.—Telecommunications*  
 25          *carriers shall ensure that advances in network serv-*

1       ices deployed by them are accessible and usable by in-  
2       dividuals with disabilities, including individuals with  
3       functional limitations of hearing, vision, movement,  
4       manipulation, speech, or interpretation of informa-  
5       tion, unless the cost of making the services accessible  
6       and usable would result in an undue burden or ad-  
7       verse competitive impact. The carriers shall seek to  
8       permit the use of both standard and special equip-  
9       ment, and seek to minimize the need of individuals to  
10      acquire additional devices beyond those used by the  
11      general public to obtain such access.

12           “(2) INQUIRY.—The Commission shall, within 2  
13      years after the date of enactment of the Communica-  
14      tions Act of 1994, complete an inquiry into policies,  
15      practices, and regulations which address the access  
16      needs of individuals with speech disabilities, includ-  
17      ing those who use electronic speechmaking devices and  
18      those who use telephone relay services. The inquiry  
19      will develop recommendations for more effective ways  
20      to incorporate current specialized consumer product  
21      equipment devices into the nation’s telecommuni-  
22      cations infrastructure in addition to addressing the  
23      speech-to-speech translation needs of individuals with  
24      significant voice disabilities.

1           “(3) *COMPATIBILITY.*—Whenever an undue bur-  
 2           den or adverse competitive impact would result from  
 3           the requirements in paragraphs (1) and (2), the man-  
 4           ufacturer that designs, develops, or fabricates the  
 5           equipment or network service shall ensure that such  
 6           equipment or service is compatible with existing pe-  
 7           ripheral devices or specialized customer premises  
 8           equipment commonly used by persons with disabil-  
 9           ities to achieve access, unless doing so would result in  
 10          an undue burden or adverse competitive impact.

11           “(4) *DEFINITIONS.*—As used in this section:

12                   “(A) *UNDUE BURDEN.*—The term ‘undue  
 13                   burden’ means significant difficulty or expense.  
 14                   In determining whether the activity necessary to  
 15                   comply with the requirements of paragraphs (1),  
 16                   (2), and (3) would result in an undue burden,  
 17                   the factors to be considered include—

18                           “(i) the nature and cost of the activity;

19                           “(ii) the impact on the operation of the  
 20                           facility involved in the manufacture of the  
 21                           equipment or the deployment of the network  
 22                           service;

1           “(iii) the financial resources of the tele-  
2           communications equipment manufacturer  
3           or telecommunications carrier;

4           “(iv) the financial resources of the  
5           manufacturing affiliate of a Bell operating  
6           company in the case of manufacturing of  
7           equipment, as long as applicable regulatory  
8           rules prohibit cross-subsidization of equip-  
9           ment manufacturing with revenues from  
10          regulated telecommunications service or  
11          when the manufacturing activities are con-  
12          ducted in a separate subsidiary; and

13          “(v) the type of operations of the tele-  
14          communications equipment manufacturer  
15          or telecommunications carrier.

16          “(B) ADVERSE COMPETITIVE IMPACT.—In  
17          determining whether the activity necessary to  
18          comply with the requirements of paragraphs (1),  
19          (2), and (3) would result in adverse competitive  
20          impact, the following factors shall be considered:

21               “(i) Whether such activity would raise  
22               the cost of the equipment or network service  
23               in question beyond the level at which there  
24               would be sufficient consumer demand by the

1        *general population to make the equipment*  
2        *or network service profitable.*

3                “(ii) *Whether such activity would, with*  
4        *respect to the equipment or network service*  
5        *in question, put the telecommunications*  
6        *equipment manufacturer or telecommuni-*  
7        *cations carrier at a competitive disadvan-*  
8        *tage. This factor may be considered so long*  
9        *as competing telecommunications equipment*  
10       *manufacturers and telecommunications car-*  
11       *riers are not held to the same obligation*  
12       *with respect to access by persons with dis-*  
13       *abilities.*

14               “(C) *ACTIVITY.*—*For the purposes of this*  
15       *paragraph, the term ‘activity’ includes—*

16               “(i) *the research, design, development,*  
17       *deployment, and fabrication activities nec-*  
18       *essary to comply with the requirements of*  
19       *this section; and*

20               “(ii) *the acquisition of the related ma-*  
21       *terials and equipment components.*

22               “(5) *COORDINATION IN DEVELOPING REGULA-*  
23       *TIONS.*—*Throughout the process of developing regula-*  
24       *tions required by this paragraph, the Commission*  
25       *shall coordinate and consult with representatives of*

1       *individuals with disabilities and interested equipment*  
2       *and service providers to ensure their concerns and in-*  
3       *terests are given full consideration in such process.*

4               “(6) *EFFECTIVE DATE.*—*The regulations re-*  
5       *quired by this subsection shall become effective 18*  
6       *months after the date of enactment of the Commu-*  
7       *nications Act of 1994.*

8               “(e) *ANNUAL SURVEY.*—*The Commission shall collect*  
9       *information regarding the deployment of technologies on a*  
10       *State-by-State basis and make such information available*  
11       *to the public.*

12              “(f) *COST ALLOCATION REGULATIONS.*—*Notwith-*  
13       *standing any other time period, the Commission shall with-*  
14       *in 6 months adopt regulations, consistent with the need to*  
15       *protect universal service, to allocate a local exchange car-*  
16       *rier’s costs of deploying broadband telecommunications fa-*  
17       *cilities between local exchange service and competitive serv-*  
18       *ices.*

19              “(g) *NONDISCRIMINATORY ACCESS.*—*In considering*  
20       *any application under section 214, the Commission shall*  
21       *ensure that access to such applicant’s telecommunications*  
22       *services is not denied to any group of potential subscribers*  
23       *because of their race, gender, national origin, income, age,*  
24       *or residence in a rural or high-cost area.”.*



1       (b) *NETWORK PLANNING AND INFRASTRUCTURE*  
 2 *SHARING RULES.*—*The Commission shall complete a rule-*  
 3 *making proceeding and adopt rules to implement sections*  
 4 *229(c) (2) and (3) of the Communications Act of 1934 with-*  
 5 *in 1 year after the date of enactment of this Act.*

6       (c) *DISABILITY ACCESS RULES.*—*The Commission*  
 7 *shall complete a rulemaking proceeding and adopt rules to*  
 8 *implement section 229(d) of the Communications Act of*  
 9 *1934 within 2 years after the date of enactment of this Act.*

### 10       ***TITLE III—REGULATORY REFORM***

#### 11       ***SEC. 301. DEFINITIONS.***

12       *Section 3 of the Communications Act of 1934 (47*  
 13 *U.S.C. 153) is amended by adding at the end the following*  
 14 *new subsections:*

15       “(hh) ‘*Local exchange carrier*’ means a provider of  
 16 *telephone exchange service that the Commission determines*  
 17 *has market power. Such term does not include a person en-*  
 18 *gaged in the provision of a commercial mobile service under*  
 19 *section 332(c), except to the extent that the Commission*  
 20 *finds that such service as provided by such person in a*  
 21 *State is a replacement for a substantial portion of the*  
 22 *wireline telephone exchange service within such State.*

23       “(ii) ‘*Telecommunications*’ means the transmission,  
 24 *between or among points specified by the user, of informa-*  
 25 *tion of the user’s choosing, including voice, data, image,*

1 *graphics, or video, without change in the form or content*  
2 *of the information, as sent and received, by means of electro-*  
3 *magnetic transmission, with or without benefit of any*  
4 *closed transmission medium.*

5       “(jj) ‘Telecommunications service’ means the direct of-  
6 *fering of telecommunications for profit to the general public*  
7 *or to such classes of users as to be effectively available to*  
8 *the general public regardless of the facilities used to trans-*  
9 *mit such telecommunications services. Such term does not*  
10 *include information services or cable services as defined*  
11 *under section 602.*

12       “(kk) ‘Telecommunications carrier’ means any pro-  
13 *vider of telecommunications services, except that such term*  
14 *does not include hotels, motels, hospitals, and other*  
15 *aggregators of telecommunications services.*

16       “(ll) ‘Telecommunications number portability’ means  
17 *the ability of users of telecommunications services to retain,*  
18 *at the same location, existing telecommunications numbers*  
19 *without impairment of quality, reliability, or convenience*  
20 *when switching from one telecommunications carrier to an-*  
21 *other.*

22       “(mm) ‘Information service’ means the offering of serv-  
23 *ices which employ computer processing applications that*  
24 *act on the format, content, code, protocol, or similar aspects*  
25 *of the subscriber’s transmitted information, provide the sub-*

1 *scriber additional, different, or restructured information, or*  
 2 *involve subscriber interaction with stored information.*

3       “(nn) ‘Rural telephone company’ means a tele-  
 4 *communications carrier operating entity to the extent that*  
 5 *such entity provides telephone exchange service, including*  
 6 *access service subject to part 69 of the Commission’s rules*  
 7 *(47 C.F.R. 69.1 et seq.), to—*

8               “(1) *any service area that does not include*  
 9 *either—*

10                       “(A) *any incorporated place of 10,000 in-*  
 11 *habitants or more, or any part thereof, based on*  
 12 *the most recent population statistics of the Bu-*  
 13 *reau of the Census; or*

14                       “(B) *any territory, incorporated or unin-*  
 15 *corporated, included in an urbanized area, as*  
 16 *defined by the Bureau of the Census as of August*  
 17 *10, 1993; or*

18               “(2) *fewer than 100,000 access lines within a*  
 19 *State.*

20       “(oo) ‘Service area’ means a geographic area estab-  
 21 *lished by the Commission and the States for the purpose*  
 22 *of determining universal service obligations and support*  
 23 *mechanisms. In establishing a service area, the Commission*  
 24 *and the States shall at a minimum consider—*

1           “(1) the principles and requirements of section  
2       201A;

3           “(2) the nature of Federal and State universal  
4       service support mechanisms;

5           “(3) the historic area of service by a company  
6       and the economics of such company’s operations; and

7           “(4) the interest of consumers and competition  
8       in such area.

9       In the case of an area served by a rural telephone company,  
10   ‘service area’ shall mean such company’s ‘study area’ unless  
11   and until the Commission and the States, after taking into  
12   account recommendations of a Federal-State Joint Board  
13   instituted under section 410(c), establish a different defini-  
14   tion of service area for such company.”.

15   **SEC. 302. REGULATORY REFORM.**

16       (a) AMENDMENT OF COMMUNICATIONS ACT.—Title II  
17   of the Communications Act of 1934 (47 U.S.C. 201 et seq.)  
18   is amended by inserting after section 229 the following new  
19   section:

20   **“SEC. 230. TELECOMMUNICATIONS COMPETITION.**

21       “(a) REMOVAL OF BARRIERS TO ENTRY.—

22           “(1) Except as provided in subsection (k), one  
23       year after the date of enactment of the Communica-  
24       tions Act of 1994, no State or local statute or regula-  
25       tion, or other State or local legal requirement, may

1     *prohibit or have the effect of prohibiting the ability*  
2     *of any entity to provide any interstate or intrastate*  
3     *telecommunications services.*

4             *“(2) No local government may, after 1 year after*  
5     *the date of enactment of the Communications Act of*  
6     *1994, impose or collect any franchise, license, permit,*  
7     *or right-of-way fee or any assessment, rental, or any*  
8     *other charge or equivalent thereof as a condition for*  
9     *operating in the locality or for obtaining access to, oc-*  
10    *cupying, or crossing public rights-of-way from any*  
11    *telecommunications carrier that distinguishes between*  
12    *or among telecommunications carriers, including the*  
13    *local exchange carrier. For purposes of this para-*  
14    *graph, a franchise, license, permit, or right-of-way fee*  
15    *or an assessment, rental, or any other charge or*  
16    *equivalent thereof does not include any imposition of*  
17    *general applicability which does not distinguish be-*  
18    *tween or among telecommunications carriers, or any*  
19    *tax.*

20            *“(3) Nothing in this subsection shall affect the*  
21    *application of section 332(c)(3) to commercial mobile*  
22    *services providers.*

23            *“(4) If, after notice and an opportunity for pub-*  
24    *lic comment, the Commission determines that a State*  
25    *or local government has permitted or imposed any*

1     *statute, regulation, or legal requirement that violates*  
2     *or is inconsistent with this subsection, the Commis-*  
3     *sion shall immediately preempt the enforcement of*  
4     *such statute, regulation, or legal requirement to the*  
5     *extent necessary to correct such violation or inconsis-*  
6     *ency.*

7             *“(5) Nothing in this section restricts the ability*  
8     *of any State or local government entity to make its*  
9     *telecommunications facilities available to carriers so*  
10    *long as making such facilities available is not a tele-*  
11    *communications service.*

12            *“(b) REGULATORY AUTHORITY.—Nothing in this sec-*  
13    *tion shall affect the ability of State officials to impose, on*  
14    *a competitively neutral basis and consistent with section*  
15    *201A, requirements necessary to preserve and advance uni-*  
16    *versal service, protect the public safety and welfare, ensure*  
17    *the continued quality of telecommunications services, and*  
18    *safeguard the rights of consumers.*

19            *“(c) OBLIGATIONS OF TELECOMMUNICATIONS CAR-*  
20    *RIERS.—*

21            *“(1) To the extent that they provide tele-*  
22    *communications services, telecommunications carriers*  
23    *shall be deemed common carriers under this Act. The*  
24    *Commission shall prescribe regulations consistent*  
25    *with its determinations under subsection (g)(1) to re-*

1     *quire all telecommunications carriers, upon bona fide*  
2     *request, to provide to any provider of telecommuni-*  
3     *cations equipment or any entity seeking to provide*  
4     *telecommunications services or information services,*  
5     *on reasonable terms and conditions and at rates that*  
6     *are just and reasonable and not unjustly or unreason-*  
7     *ably discriminatory—*

8             *“(A) interconnection to the carrier’s tele-*  
9             *communications facilities and services at any*  
10            *technically and economically feasible point with-*  
11            *in the carrier’s network;*

12            *“(B) nondiscriminatory access on an*  
13            *unbundled basis where technically and economi-*  
14            *cally feasible to any of the carrier’s telecommuni-*  
15            *cations facilities and information, including*  
16            *databases and signaling, necessary to the trans-*  
17            *mission and routing of any telecommunications*  
18            *service or information service and the interoper-*  
19            *ability of both carriers’ networks;*

20            *“(C) nondiscriminatory access, where tech-*  
21            *nically and economically feasible, to the poles,*  
22            *ducts, conduits, and rights of way owned or con-*  
23            *trolled by the carrier;*

24            *“(D) nondiscriminatory access where tech-*  
25            *nically and economically feasible to the network*

1        *functions and services of the carrier's tele-*  
2        *communications network, which shall be offered*  
3        *on an unbundled basis;*

4                *“(E) telecommunications services and net-*  
5        *work functions on an unbundled basis without*  
6        *any unreasonable conditions or restrictions on*  
7        *the resale or sharing of those services or func-*  
8        *tions, including both origination and termi-*  
9        *nation of telecommunications services (for pur-*  
10       *poses of this subparagraph, it shall not be*  
11       *deemed an unreasonable condition for a tele-*  
12       *communications carrier, consistent with the*  
13       *Commission's rules and State regulations, to*  
14       *limit the resale of services included in the defini-*  
15       *tion of universal service to another telecommuni-*  
16       *cations carrier who intends to resell that service*  
17       *to a category of customers different from the cat-*  
18       *egory of customers being offered that universal*  
19       *service by such carrier, nor shall it be deemed*  
20       *unreasonable to provide services included in the*  
21       *definition of universal service to another tele-*  
22       *communications carrier for resale at rates which*  
23       *reflect the actual cost of providing such services,*  
24       *exclusive of any universal service support re-*



1       *ceived by such carrier in accordance with regula-*  
2       *tions promulgated under section 201A);*

3               *“(F) local dialing parity, as soon as tech-*  
4       *nically and economically feasible, in a manner*  
5       *that permits consumers to be able to dial the*  
6       *same number of digits when using any tele-*  
7       *communications carrier providing telephone ex-*  
8       *change service or exchange access service through*  
9       *resale in a market, and in a manner that per-*  
10       *mits all such carriers to have nondiscriminatory*  
11       *access to telephone numbers, operator services,*  
12       *directory assistance, directory listing, and no*  
13       *unreasonable dialing delays; and*

14               *“(G) telecommunications number port-*  
15       *ability, as administered by an impartial entity,*  
16       *as soon as technically and economically feasible.*

17               *“(2) A State may not, with respect to the provi-*  
18       *sion of any intrastate telecommunications service, im-*  
19       *pose upon any telecommunications carrier any regu-*  
20       *latory requirement concerning the provision of intra-*  
21       *state services inconsistent with the requirements im-*  
22       *posed by the Commission on such carrier with respect*  
23       *to the provision of interstate services. Nothing in this*  
24       *subsection precludes a State from imposing require-*  
25       *ments on a carrier for intrastate services that are nec-*

1        *essary to further competition for local exchange or ex-*  
2        *change access services, including intraLATA toll dial-*  
3        *ing parity, as long as the State's actions are not in-*  
4        *consistent with the Commission's regulations.*

5        *“(d) CONSUMER INFORMATION.—As competition for*  
6        *telecommunications services develops, the Commission and*  
7        *State regulatory authorities shall ensure that consumers are*  
8        *given the information necessary to make informed choices*  
9        *among their telecommunications alternatives. Any tele-*  
10       *communications carrier that provides billing and collection*  
11       *for any information service shall display any charges for*  
12       *information services in a part of the subscriber's bill that*  
13       *is separate from charges for telecommunications services.*

14       *“(e) PRESUBSCRIPTION AND BALLOTING.—The Com-*  
15       *mission shall prescribe regulations to ensure that consum-*  
16       *ers, as soon as practicable, have the opportunity to select*  
17       *their local exchange carrier by means of a balloting and*  
18       *presubscription process, and that all carriers providing any*  
19       *such service in each market bear a reasonable share of the*  
20       *costs of their respective balloting processes.*

21       *“(f) COMPENSATION AGREEMENTS.—The Commission*  
22       *and the States shall adopt regulations to ensure that tele-*  
23       *communications carriers compensate each other for termi-*  
24       *nation of telecommunications services on each other's net-*  
25       *works.*

1       “(g) *REGULATORY FLEXIBILITY IN COMPETITIVE MAR-*  
 2   *KETS.*—

3               “(1) *REGULATORY FLEXIBILITY.*—*The Commis-*  
 4   *sion may forbear from applying any regulation or*  
 5   *any provision of this title (except for sections 201,*  
 6   *201A, 201B, 201C, 202, 208, and 230(c)(1)(G)) to a*  
 7   *telecommunications carrier or service, or class of car-*  
 8   *riers or services, in any or some of its or their geo-*  
 9   *graphic markets only if the Commission determines*  
 10   *that—*

11               “(A) *enforcement of such regulation or pro-*  
 12   *vision is not necessary to ensure that the charges,*  
 13   *practices, classifications, or regulations by, for,*  
 14   *or in connection with that carrier or service are*  
 15   *just and reasonable and are not unjustly or un-*  
 16   *reasonably discriminatory;*

17               “(B) *enforcement of such regulation or pro-*  
 18   *vision is not necessary for the protection of con-*  
 19   *sumers; and*

20               “(C) *forbearance from applying such regu-*  
 21   *lation or provision is consistent with the public*  
 22   *interest.*

23   *In making the determination under subparagraph*  
 24   *(C), the Commission shall consider whether forbear-*  
 25   *ance from enforcing the regulation or provision will*

1     *promote competitive market conditions, including the*  
2     *extent to which such forbearance will enhance com-*  
3     *petition among providers of telecommunications serv-*  
4     *ices. If the Commission determines that such forbear-*  
5     *ance will promote competition among providers of*  
6     *telecommunications services, that determination may*  
7     *be the basis for a Commission finding that forbear-*  
8     *ance is in the public interest.*

9             “(2) *COMMERCIAL MOBILE SERVICES.*—*Nothing*  
10     *in this subsection shall affect any determination by*  
11     *the Commission under section 332 that a provision of*  
12     *title II is inapplicable to a provider of commercial*  
13     *mobile services.*

14             “(3) *PRICING FLEXIBILITY.*—*Consistent with sec-*  
15     *tions 201(b) and 202(a), the Commission and the*  
16     *States shall permit telecommunications carriers to*  
17     *have pricing flexibility in service or geographic mar-*  
18     *kets that are found to be competitive. In implement-*  
19     *ing this subsection, the Commission and the States*  
20     *shall ensure that rates for universal service and for*  
21     *services that are not competitive remain just, reason-*  
22     *able, affordable, and not unjustly or unreasonably*  
23     *discriminatory and that universal service is preserved*  
24     *and advanced.*

1       “(h) *RULES FOR FOREIGN OWNERSHIP.*—The Com-  
2 mission, upon a petition for waiver filed within 6 months  
3 after the date of enactment of the Communications Act of  
4 1994, may waive the application of section 310(b) to any  
5 foreign ownership that lawfully existed before August, 1,  
6 1994, of any provider of a telecommunications service that  
7 will be treated as a common carrier solely as a result of  
8 the enactment of the Communications Act of 1994, but only  
9 upon the following conditions:

10           “(1) *The extent of foreign ownership interest*  
11       *shall not be increased above the extent which existed*  
12       *on August, 1, 1994.*

13           “(2) *Such waiver shall not permit the subsequent*  
14       *transfer of ownership to any other person in violation*  
15       *of section 310(b).*

16       “(i) *COLLOCATION.*—In the exercise of its authority  
17 under this subsection, the Commission may require carriers  
18 to provide for actual collocation of equipment necessary for  
19 interconnection at the premises of any carrier, if the Com-  
20 mission finds actual collocation to be in the public interest.

21       “(j) *MULTI-UNIT BUILDING.*—No person owning, leas-  
22 ing, controlling, or managing a multi-unit building shall  
23 forbid or unreasonably restrict any occupant, tenant, or les-  
24 see of such building from receiving telecommunications serv-  
25 ices from any provider of its choice, who is duly certified

1 *by or otherwise authorized by the State regulatory agency*  
2 *of relevant jurisdiction. The owner of such multi-unit build-*  
3 *ing may require from any such telecommunications carrier*  
4 *just and reasonable compensation for purposes of accessing*  
5 *the building to serve any occupant, tenant, or lessee or for*  
6 *the use of building facilities, provided that such compensa-*  
7 *tion is just and reasonable and does not discriminate be-*  
8 *tween or among providers of telecommunications services or*  
9 *charge any telecommunications service provider greater*  
10 *compensation than that imposed, if any, on the local ex-*  
11 *change carrier. Nothing in this subsection shall affect the*  
12 *ability of a person owning, leasing, controlling, or manag-*  
13 *ing a multi-unit building to impose, on a competitively*  
14 *neutral basis, requirements necessary to protect the safety*  
15 *and security of the property and the safety and convenience*  
16 *of other persons.*

17       “(k) *RURAL MARKETS.*—

18               “(1) *STATE APPROVAL REQUIRED.*—*The Com-*  
19 *mission shall, within one year after the date of enact-*  
20 *ment of the Communications Act of 1994, promulgate*  
21 *regulations to require that any entity (other than an*  
22 *entity to which section 332(c) applies) seeking to pro-*  
23 *vide telephone exchange service in an area served by*  
24 *a rural telephone company after such date of enact-*  
25 *ment must first obtain approval from the appropriate*

1     *State commission for the purpose of ensuring compli-*  
2     *ance with any statutes or regulations, if any, adopted*  
3     *by such State under paragraph (2). Such State com-*  
4     *mission shall approve an application for permission*  
5     *to provide such service only if the application is con-*  
6     *sistent with regulations issued by the Commission*  
7     *under this subsection. A State commission shall take*  
8     *action to approve or disapprove any application*  
9     *within 180 days of receiving such application.*

10           “(2) *STATE OVERSIGHT.*—*The Commission shall,*  
11     *within one year after the date of enactment of the*  
12     *Communications Act of 1994, promulgate regulations*  
13     *to permit State oversight of rural markets. The Com-*  
14     *mission’s regulations shall not permit States to waive*  
15     *or modify any requirements of the other subsections of*  
16     *this section, but shall permit States to adopt statutes*  
17     *or regulations that are no more restrictive than—*

18           “(A) *to require an enforceable commitment*  
19     *by each applicant to offer universal service com-*  
20     *parable to that offered by the rural telephone*  
21     *company currently providing service in that*  
22     *service area, and to make such service available*  
23     *within 24 months of the approval date to all*  
24     *consumers throughout that service area on a*  
25     *common carrier basis, either using the appli-*

1       cant's facilities or through resale under sub-  
2       section (c) of services using another carrier's fa-  
3       cilities (including the facilities of the rural tele-  
4       phone company), and subject to the same terms,  
5       conditions, and rate structure requirements as  
6       those applicable to the rural telephone company  
7       currently providing universal service;

8               “(B) to require that approval by the State  
9       commission under paragraph (1) be based on  
10      sufficient written public findings and conclu-  
11      sions to demonstrate that such approval is in the  
12      public interest and that there will not be a sig-  
13      nificant adverse impact on users of telecommuni-  
14      cations services or on the provision of universal  
15      service;

16              “(C) to encourage the development and de-  
17      ployment of advanced telecommunications and  
18      information infrastructure and services in rural  
19      areas; or

20              “(D) to protect the public safety and wel-  
21      fare, ensure the continued quality of tele-  
22      communications and information services, or  
23      safeguard the rights of consumers.

24              “(3) *PRE-EMPTION*.—Upon a proper showing,  
25      the Commission may pre-empt any State statute or



1     *regulation that the Commission finds to be inconsis-*  
2     *ent with the Commission's regulations implementing*  
3     *this subsection, or an arbitrary or unreasonably dis-*  
4     *criminatory application of such statute or regulation.*  
5     *The Commission shall act upon any bona fide peti-*  
6     *tion filed under this subsection within 180 days of re-*  
7     *ceiving such petition. Pending such action, the Com-*  
8     *mission may, in the public interest, suspend or mod-*  
9     *ify application of any statute or regulation to which*  
10    *the petition applies.*

11         “(4) VIDEO PROGRAMMING.—Notwithstanding  
12     section 613(b)(1), and unless authorized to provide  
13     video programming directly to subscribers under sec-  
14     tion 613(b)(3) or (b)(4), a rural telephone company  
15     may not, after the date of enactment of the Commu-  
16     nications Act of 1994, provide video programming di-  
17     rectly to subscribers in such rural telephone compa-  
18     ny's service area, or obtain a controlling interest  
19     under section 613(b)(5) in a cable operator providing  
20     cable service in such rural telephone company's serv-  
21     ice area, unless—

22                 “(A) the State has not imposed, or ceases to  
23             impose, any conditions authorized under this  
24             subsection on any entity's ability to provide tele-

1       *phone exchange service in such rural telephone*  
2       *company's service area;*

3               *“(B) such rural telephone company success-*  
4       *fully petitions the State to waive any conditions*  
5       *on any entity's ability to provide telephone ex-*  
6       *change service in such rural telephone company's*  
7       *service area; or*

8               *“(C) an entity unaffiliated with such rural*  
9       *telephone company obtains approval from the*  
10       *State to provide telephone exchange service in*  
11       *such rural telephone company's service area.*

12       *“(I) WAIVERS AND MODIFICATIONS.—*

13               *“(1) RURAL TELEPHONE COMPANIES.—The Com-*  
14       *mission shall, upon petition or on the Commission's*  
15       *own initiative, modify the requirements of subsections*  
16       *(c) and (e) for a rural telephone company or compa-*  
17       *nies to the extent that the Commission determines*  
18       *that such requirements would result in unfair com-*  
19       *petition, impose a significant adverse economic im-*  
20       *pact on users of telecommunications services, be tech-*  
21       *nically infeasible, or otherwise not be in the public*  
22       *interest. The Commission shall act upon any petition*  
23       *filed under this paragraph within 180 days of receiv-*  
24       *ing such petition. Pending such action, the Commis-*  
25       *sion may suspend enforcement of the regulation or*

1       *regulations to which the petition applies with respect*  
2       *to the petitioning carrier or carriers.*

3               “(2) *CERTAIN OTHER CARRIERS.*—Upon a prop-  
4       *er showing by a telecommunications carrier or car-*  
5       *riers, the Commission may waive or modify the re-*  
6       *quirements of subsections (c) and (e) for that carrier*  
7       *or carriers if each such carrier has, in the aggregate*  
8       *nationwide, fewer than 2 percent of the Nation’s sub-*  
9       *scriber lines installed, to the extent that the Commis-*  
10       *sion determines that such requirements would result*  
11       *in unfair competition, impose a significant adverse*  
12       *economic impact on users of telecommunications serv-*  
13       *ices, be technically infeasible, or otherwise not be in*  
14       *the public interest. The Commission shall act upon*  
15       *any petition filed under this paragraph within 180*  
16       *days of receiving such petition. Pending such action,*  
17       *the Commission may suspend enforcement of the regu-*  
18       *lation or regulations to which the petition applies*  
19       *with respect to the petitioning carrier or carriers.*

20               “(m) *SPACE SEGMENT CAPACITY.*—Nothing in this  
21       *Act prohibits the Commission from continuing to determine*  
22       *whether the provision of space segment capacity by satellite*  
23       *systems to providers of commercial mobile services shall be*  
24       *treated as common carriage.’’.*

1       (b) *PARTICIPATION BY REGISTERED UTILITY HOLD-*  
 2 *ING COMPANIES IN PROVIDING TELECOMMUNICATIONS*  
 3 *SERVICES.*—

4           (1) *IN GENERAL.*—*Title I of the Public Utility*  
 5 *Holding Company Act of 1935 (15 U.S.C. 79a et seq.)*  
 6 *is amended—*

7                   (A) *by redesignating sections 34 and 35 as*  
 8 *35 and 36, respectively; and*

9                   (B) *by inserting after section 33 the follow-*  
 10 *ing new section:*

11 ***“SEC. 34. PARTICIPATION IN PROVISION OF TELECOMMUNI-***  
 12 ***CATIONS SERVICES.***

13       “(a) *EXEMPTION OF COMMUNICATIONS ENTITIES*  
 14 *FROM APPLICABILITY OF ACT.*—*A communications entity*  
 15 *shall be exempt from all provisions of this Act, whether or*  
 16 *not it is a subsidiary company, an affiliate, or an associate*  
 17 *company of a holding company.*

18       “(b) *OWNERSHIP OF COMMUNICATIONS ENTITIES BY*  
 19 *REGISTERED HOLDING COMPANIES.*—*Notwithstanding any*  
 20 *provision of this Act, a registered holding company shall*  
 21 *be permitted to acquire and hold the securities or an inter-*  
 22 *est in the business of one or more communications entities*  
 23 *without the need to apply for or receive approval from the*  
 24 *Commission.*

1       “(c) *CONTINUING JURISDICTION OF THE COMMIS-*  
2 *SION.*—

3               “(1) *IN GENERAL.*—*The issuance of securities by*  
4 *a registered holding company for purposes of financ-*  
5 *ing the acquisition of a communications entity, the*  
6 *guarantee of securities of a communications entity by*  
7 *a registered holding company and the creation or*  
8 *maintenance of other relationships in addition to that*  
9 *described in subsection (b) between a communications*  
10 *entity and a registered holding company, its affiliates*  
11 *and associate companies, shall remain subject to the*  
12 *jurisdiction of the Commission under the terms of this*  
13 *Act and applicable Federal law.*

14               “(2) *BOOKS AND MARKETING.*—*A communica-*  
15 *tions entity which is an associate company of a reg-*  
16 *istered holding company shall—*

17                       “(A) *maintain books, records, and accounts*  
18 *separate from the registered holding company*  
19 *which identify all transactions with the reg-*  
20 *istered holding company and its other associate*  
21 *companies and provide access to such books,*  
22 *records, and accounts to State commissions and*  
23 *the Federal Energy Regulatory Commission*  
24 *under the same terms and procedures as pro-*

1        *vided in section 201(g) of the Federal Power Act;*  
2        *and*

3                *“(B) carry out directly (or through any*  
4        *company that is not an associate company of the*  
5        *communications entity) its own promotion, ex-*  
6        *cept that institutional advertising carried out by*  
7        *the registered holding company or its associate*  
8        *companies shall be permitted so long as each*  
9        *party bears its fair share of the costs of such ad-*  
10       *vertising.*

11               *“(3) Notwithstanding paragraph (2)(B), a reg-*  
12       *istered holding company or an associate company*  
13       *thereof may provide inbound telemarketing or referral*  
14       *service related to the provision of telecommunications*  
15       *services, information services or other services set*  
16       *forth in or subject to the Communications Act of*  
17       *1934, or products or services related thereto, by a*  
18       *communications entity which is an associate com-*  
19       *pany of such registered holding company.*

20               *“(4) Notwithstanding paragraph (2)(B), a reg-*  
21       *istered holding company or an associate company*  
22       *thereof (other than a communications entity) may pe-*  
23       *tition the Federal Communications Commission for*  
24       *permission to market directly telecommunications*  
25       *services, information services, or other services set*

1       forth in or subject to the Communications Act of  
2       1934, or products or services related thereto, provided  
3       by an associate company which is a communications  
4       entity upon a showing that a cable operator or other  
5       entity directly or indirectly provides telecommuni-  
6       cations services and markets such services jointly with  
7       video programming services in the geographic region  
8       covered by the petition. The registered holding com-  
9       pany or associate company thereof shall specify the  
10      geographic region covered by the petition. Any such  
11      petition shall be granted or denied within 180 days.

12      “(d) INDEPENDENT AUDIT AUTHORITY FOR STATE  
13      COMMISSIONS.—Any State commission with jurisdiction  
14      over a public utility company that is an associate company  
15      of a registered holding company and that transacts business  
16      with a communications entity which is an associate com-  
17      pany of such public utility company, may request that such  
18      communications entity have performed, no more frequently  
19      than on an annual basis, an independent audit of trans-  
20      actions between such jurisdictional public utility and such  
21      communications entity. Upon such request from a State  
22      commission, the communications entity shall select an inde-  
23      pendent auditor and bear the costs of performing such an  
24      audit. The audit report shall be provided to the State com-  
25      mission within 6 months of the audit request.

1       “(e) *ASSUMPTION OF LIABILITIES.*—Any public utility  
2   company that is an associate company of a registered hold-  
3   ing company and that is subject to the jurisdiction of a  
4   State commission with respect to its retail electric or gas  
5   rates shall not include in rates any cost associated with  
6   the issuance of any security by the public utility for the  
7   purpose of financing the acquisition, or for the purposes  
8   of financing the ownership or operation, of a communica-  
9   tions entity without the express approval of the State com-  
10   mission. Any public utility company that is an associate  
11   company of a registered holding company and that is sub-  
12   ject to the jurisdiction of a State commission with respect  
13   to its retail electric or gas rates shall not include in rates  
14   any cost associated with the assumption of any obligation  
15   or liability as guarantor, endorser, surety, or otherwise by  
16   the public utility in respect of any security of a commu-  
17   nications entity without the express approval of the State  
18   commission.

19       “(f) *PLEDGING OR ENCUMBERING UTILITY ASSETS.*—  
20   Any public utility company that is an associate company  
21   of a registered holding company and that is subject to the  
22   jurisdiction of a State commission with respect to its retail  
23   electric or gas rates may not include in rates any cost asso-  
24   ciated with the pledge or encumbering of any utility assets  
25   of the public utility or utility assets of any subsidiary there-



1 *of for the benefit of an associate communications entity*  
2 *without the express approval of the State commission.*

3       “(g) *PROHIBITION ON CROSS SUBSIDIZATION.*—The  
4 *Federal Communications Commission shall prescribe regu-*  
5 *lations that prohibit a communications entity that is an*  
6 *associate company of a registered holding company from*  
7 *providing telecommunications services, information serv-*  
8 *ices, or other services set forth in or subject to the Commu-*  
9 *nications Act of 1934, or products or services related thereto*  
10 *to any associate company thereof unless the terms under*  
11 *which the communications entity offers such services or*  
12 *products are comparable to those offered to the public, hav-*  
13 *ing due regard to any differences in type, quality, or quan-*  
14 *tity of service, or, if no such comparability exists, then on*  
15 *the basis of the fair allocation of the cost of providing such*  
16 *services or products.*

17       “(h) *APPLICABILITY OF TELECOMMUNICATIONS REGU-*  
18 *LATION.*—*Nothing in this section shall affect the authority*  
19 *of the Federal Communications Commission under the*  
20 *Communications Act of 1934, or the authority of State com-*  
21 *missions under State laws concerning the provision of tele-*  
22 *communications services, to regulate the activities of com-*  
23 *munication entities.*

24       “(i) *DEFINITIONS.*—*For purposes of this section:*

25               “(1) *COMMUNICATIONS ENTITY.*—

1           “(A) *IN GENERAL.*—The term ‘communica-  
2           tions entity’ means any person determined by  
3           the Commission to be engaged, whether through  
4           ownership of facilities, in the provision of serv-  
5           ices, or otherwise, directly (or indirectly through  
6           ownership of securities or any other interest) and  
7           exclusively in the business, wheresoever located,  
8           of providing telecommunications services, infor-  
9           mation services, or other products or services set  
10          forth in or subject to the Communications Act of  
11          1934 (47 U.S.C. 151 et seq.), or products or serv-  
12          ices related or incidental thereto, including en-  
13          ergy and demand-side management services (but  
14          not the manufacturing of devices or products ex-  
15          cept to the extent such devices or products relate  
16          to the provision of electric or gas service, and en-  
17          ergy and demand-side management services).

18          “(B) *COMMISSION DETERMINATION.*—No  
19          person shall be deemed to be a communications  
20          entity under this section unless such person has  
21          applied to the Commission for a determination  
22          under this paragraph. A person applying in  
23          good faith for such a determination shall be  
24          deemed a communications entity under this sec-  
25          tion, with all of the exemptions provided by this

1        *section, until the Commission makes such a de-*  
 2        *termination. The Commission shall make such*  
 3        *determination within 60 days of its receipt of*  
 4        *such application. Not later than 12 months after*  
 5        *the date of enactment of the Communications Act*  
 6        *of 1994, the Commission shall promulgate regu-*  
 7        *lations to establish expeditious procedures for the*  
 8        *implementation of this paragraph. Applications*  
 9        *for determination filed after the effective date of*  
 10       *such rules shall be subject thereto.*

11        *“(2) TELECOMMUNICATIONS SERVICE AND INFOR-*  
 12        *MATION SERVICE.—The terms ‘telecommunications*  
 13        *service’ and ‘information service’ have the meanings*  
 14        *given such terms under the Communications Act of*  
 15        *1934.”.*

16        *(2) AUTHORITY TO DISALLOW RECOVERY OF CER-*  
 17        *TAIN COSTS UNDER FEDERAL POWER ACT.—Section*  
 18        *318 of the Federal Power Act (16 U.S.C. 825q) is*  
 19        *amended—*

20                *(A) by inserting “(a)” after “SEC. 318.”;*  
 21                *and*

22                *(B) by adding at the end thereof the follow-*  
 23                *ing:*

24                *“(b)(1) The Commission shall have the authority to*  
 25        *disallow recovery in jurisdictional rates of any costs in-*

1 *curring by a public utility pursuant to a transaction that*  
2 *has been authorized under section 13(b) of the Public Util-*  
3 *ity Holding Company Act of 1935, including costs allocated*  
4 *to such public utility in accordance with paragraph (d),*  
5 *if the Commission determines that the recovery of such costs*  
6 *is unjust, unreasonable, or unduly preferential or discrimi-*  
7 *natory under sections 205 or 206 of this Act.*

8       “(2) *Nothing in the Public Utility Holding Company*  
9 *Act of 1935, or any actions taken thereunder, shall prevent*  
10 *a State commission from exercising its jurisdiction to the*  
11 *extent otherwise authorized under applicable law with re-*  
12 *spect to the recovery by a public utility in its retail rates*  
13 *of costs incurred by such public utility pursuant to a trans-*  
14 *action authorized by the Securities and Exchange Commis-*  
15 *sion under section 13(b) between an associate company and*  
16 *such public utility, including costs allocated to such public*  
17 *utility in accordance with paragraph (d).*

18       “(c) *In any proceeding of the Commission to consider*  
19 *the recovery of costs described in subsection (b)(1), there*  
20 *shall be a rebuttable presumption that such costs are just,*  
21 *reasonable, and not unduly discriminatory or preferential*  
22 *within the meaning of this Act.*

23       “(d)(1) *In any proceeding of the Commission to con-*  
24 *sider the recovery of costs, the Commission shall give sub-*  
25 *stantial deference to an allocation of charges for services,*

1 *construction work, or goods among associate companies*  
2 *under section 13 of the Public Utility Holding Company*  
3 *Act of 1935, whether made by rule, regulation, or order of*  
4 *the Securities and Exchange Commission prior to or follow-*  
5 *ing the enactment of the Communications Act of 1994.*

6       “(2) *If the Commission pursuant to paragraph (1) es-*  
7 *tablishes an allocation of charges that differs from an allo-*  
8 *cation established by the Securities and Exchange Commis-*  
9 *sion with respect to the same charges, the allocation estab-*  
10 *lished by the Federal Energy Regulatory Commission shall*  
11 *be effective 12 months from the date of the order of the Fed-*  
12 *eral Energy Regulatory Commission establishing such allo-*  
13 *cation, and binding on the Securities and Exchange Com-*  
14 *mission as of that date.*

15       “(e) *An allocation of charges for services, construction*  
16 *work, or goods among associate companies under section 13*  
17 *of the Public Utility Holding Company Act of 1935, wheth-*  
18 *er made by rule, regulation, or order of the Securities and*  
19 *Exchange Commission prior to or following enactment of*  
20 *the Communications Act of 1994, shall prevent a State*  
21 *Commission from using a different allocation with respect*  
22 *to the assignment of costs to any associate company.*

23       “(f) *Subsection (b) shall not apply—*

1           “(1) to any cost incurred and recovered prior to  
2       July 15, 1994, whether or not subject to refund or ad-  
3       justment; or

4           “(2) to any uncontested settlement approved by  
5       the Commission or a State Commission prior to the  
6       date of enactment of the Communications Act of  
7       1994.”.

8           (3) *IMPACT ON OTHER MATTER.*—The enactment  
9       of this subsection shall in no way affect Federal En-  
10      ergy Regulatory Commission Docket No. FA89–28.

11          (4) *SAVINGS PROVISION.*—Section 318(b) of the  
12      Federal Power Act (16 U.S.C. 825q(b)) shall not  
13      apply to any cost incurred and recovered prior to the  
14      date of enactment of this Act pursuant to a contract  
15      or other arrangement for the sale of fuel from Wind-  
16      sor Coal Company or Central Ohio Coal Company  
17      which has been the subject of a determination by the  
18      Securities and Exchange Commission prior to the  
19      date of enactment of this Act, or any cost prudently  
20      incurred after that date pursuant to such a contract  
21      or other such arrangement before January 1, 2001.

22          (c) *CERTAIN BROADCASTS.*—Section 1307(a)(2) of  
23      title 18, United States Code, is amended by striking out  
24      “that is authorized” and all that follows and inserting  
25      “which is broadcast by a radio or television station licensed

1 *to a location in a State in which such activities are author-*  
 2 *ized or not otherwise prohibited.”.*

3 **SEC. 303. IMPLEMENTING REGULATIONS.**

4 *(a) The Commission shall, within 1 year after the date*  
 5 *of enactment of this Act, complete a proceeding to issue reg-*  
 6 *ulations to implement the amendments made by this title.*

7 *(b) Section 303 of the Communications Act of 1934*  
 8 *(47 U.S.C. 303) is amended by adding at the end thereof*  
 9 *the following new subsection:*

10 *“(v) Have exclusive jurisdiction to regulate the provi-*  
 11 *sion of direct broadcast satellite services.”.*

12 **SEC. 304. STATE AND LOCAL TAXATION OF DIRECT BROAD-**  
 13 **CAST SATELLITE SERVICES.**

14 *(a) AUTHORITY TO IMPOSE TAXES AND FEES ON DI-*  
 15 *RECT BROADCAST SATELLITE SERVICES.—*

16 *(1) IN GENERAL.—A State may require a direct*  
 17 *broadcast satellite service provider who is subject to*  
 18 *the personal jurisdiction of the State to collect and*  
 19 *remit a State sales tax, a local sales tax, or both, with*  
 20 *respect to direct broadcast satellite services, if—*

21 *(A) the destination of such services is in the*  
 22 *State, and*

23 *(B) in a State in which both State and*  
 24 *local sales taxes are imposed, the State, in ac-*  
 25 *cordance with the requirements of this section—*

1           (i) requires the collection and remit-  
2           tance of any applicable local sales taxes  
3           with respect to direct broadcast satellite  
4           services, and

5           (ii) collects and administers the local  
6           sales taxes with respect to direct broadcast  
7           satellite services, except in those local taxing  
8           jurisdictions described in paragraph (2)(A).

9           (2) LOCAL TAXING JURISDICTION.—

10          (A) A State that exercises authority under  
11          this section may require a direct broadcast sat-  
12          ellite service provider to collect and remit local  
13          sales taxes to the local taxing jurisdiction if—

14               (i) as of the effective date of this sec-  
15               tion, the local taxing jurisdiction imposes  
16               and administers a local sales tax separate  
17               from the sales tax imposed by the State, or

18               (ii) after the effective date of this sec-  
19               tion, a local jurisdiction that does not im-  
20               pose any local sales taxes as of the effective  
21               date of this section is authorized to impose  
22               a local sales tax.

23          (B) If, after the effective date of this section,  
24          a local jurisdiction is authorized to administer a  
25          local sales tax that the State is administering as



1       *of the effective date of this section, the State shall*  
2       *continue to collect and remit the local sales tax*  
3       *authorized under this section in accordance with*  
4       *paragraph (1)(B)(ii).*

5       (3) *DISTRIBUTION OF LOCAL SALES TAXES.—A*  
6       *State shall distribute the local sales tax collected*  
7       *under the authority granted by this section to local*  
8       *jurisdictions in accordance with the requirements pro-*  
9       *vided by State law governing the distribution of local*  
10      *sales taxes.*

11      (b) *STATE AND LOCAL LAW; NONDISCRIMINATION.—*

12          (1) *STATE AND LOCAL LAW.—A State may re-*  
13       *quire a direct broadcast satellite service provider to*  
14       *collect and remit State and local sales taxes with re-*  
15       *spect to direct broadcast satellite services only where*  
16       *the applicable law of the State or local taxing juris-*  
17       *isdiction imposes a sales tax.*

18          (2) *NONDISCRIMINATION.—Except as otherwise*  
19       *provided in this section, a State that exercises author-*  
20       *ity under this section shall allow to direct broadcast*  
21       *satellite service providers exemptions or other excep-*  
22       *tions to State and local sales taxes that the State or*  
23       *local taxing jurisdiction allows under similar cir-*  
24       *cumstances to persons located within the State or*  
25       *local taxing jurisdiction.*

1 (c) *EXEMPTION.*—

2 (1) *EXEMPTION OF OTHER LOCAL TAX OR FEE*  
3 *FOR SERVICES.*—A direct broadcast satellite service  
4 provider and its representatives for the sale or dis-  
5 tribution of direct broadcast satellite services shall be  
6 exempt from collecting and remitting any other local  
7 tax or fee (as defined by subsection (d)(9)) imposed  
8 on direct broadcast satellite services in any local tax-  
9 ing jurisdiction in which, during the 1-year period  
10 ending on September 30 of the calendar year preced-  
11 ing the calendar year in which the provision of direct  
12 broadcast satellite services occurs, the direct broadcast  
13 satellite service provider does not own or hold any in-  
14 terest in property or maintain an office, and limits  
15 its business activities to no more than—

16 (A) providing direct broadcast satellite serv-  
17 ices to subscribers in the local taxing jurisdic-  
18 tion, and the billing for and collection of the fees  
19 for such services occur outside the local taxing  
20 jurisdiction; and

21 (B) soliciting and placing orders for the  
22 sale of direct broadcast satellite services through  
23 contractual arrangements with, and on the  
24 premises of, retail outlets and establishments,  
25 which orders are filled and billed for from a

1        *point outside the local taxing jurisdiction, re-*  
 2        *gardless of where the subscriber makes an initial*  
 3        *payment for an initial subscription.*

4        (2) *NO OTHER EFFECT.*—*Except as provided*  
 5        *herein, this section does not affect the authority of*  
 6        *any State or local taxing jurisdiction of any State*  
 7        *otherwise to adopt, apply, and administer any tax or*  
 8        *method of taxation.*

9        (d) *DEFINITIONS.*—*For purposes of this section:*

10        (1) *COMPENSATING USE TAX.*—*The term “com-*  
 11        *pensating use tax” means a tax imposed on or inci-*  
 12        *dent to the use or consumption of direct broadcast*  
 13        *satellite services within a State or a local jurisdiction*  
 14        *or other area of a State.*

15        (2) *DESTINATION.*—*The term “destination”*  
 16        *means the State or local jurisdiction to which the di-*  
 17        *rect broadcast satellite service is delivered for viewing*  
 18        *or other activity to which the service is directed.*

19        (3) *DIRECT BROADCAST SATELLITE SERVICE*  
 20        *PROVIDER.*—*The term “direct broadcast satellite serv-*  
 21        *ice provider” means a licensee for a Ku-band satellite*  
 22        *system under part 100 of title 47, Code of Federal*  
 23        *Regulations, who provides direct broadcast satellite*  
 24        *services.*

1           (4) *DIRECT BROADCAST SATELLITE SERVICES.*—

2           *The term “direct broadcast satellite services” means*  
3           *the distribution or broadcasting of programming or*  
4           *services by satellite directly to the subscriber’s prem-*  
5           *ises without the use of ground receiving or distribu-*  
6           *tion equipment, except at the subscriber’s premises, or*  
7           *used in the initial uplink process to the direct broad-*  
8           *cast satellite.*

9           (5) *LOCAL TAXING JURISDICTION.*—*The term*  
10          *“local taxing jurisdiction” means any municipality,*  
11          *city, county, township, parish, transportation dis-*  
12          *trict, or assessment jurisdiction, or any other political*  
13          *subdivision with the authority to impose a tax or fee.*

14          (6) *LOCAL SALES TAX.*—*The term “local sales*  
15          *tax” means a sales or compensating use tax imposed*  
16          *by a local taxing jurisdiction, whether administered*  
17          *by the State or the local taxing jurisdiction.*

18          (7) *SALES TAX.*—*The term “sales tax” means a*  
19          *tax, including a compensating use tax, that is—*

20                 (A) *imposed on or incident to the sale, pur-*  
21                 *chase, consumption, distribution, or other use of*  
22                 *direct satellite broadcast services as may be de-*  
23                 *finied or specified under the law imposing such*  
24                 *tax, and*

1           (B) measured by the amount of the sales  
 2           price, cost, charge, or gross receipts, or other  
 3           value of or for the services.

4           (8) *STATE*.—Notwithstanding any provision to  
 5           the contrary in this section, the term “State” means  
 6           any of the several States of the United States, the  
 7           District of Columbia, the Commonwealth of Puerto  
 8           Rico, and any territory or possession of the United  
 9           States.

10          (9) *OTHER LOCAL TAX OR FEE*.—The term  
 11          “other local tax or fee” means any local tax or fee  
 12          that is not a sales tax, as defined in paragraph (6)  
 13          or (7), including such locally imposed taxes and fees  
 14          as an intangible tax, income tax, business license tax,  
 15          utility tax, privilege tax, gross receipts tax, excise tax,  
 16          franchise fees, telecommunications tax, or other tax,  
 17          license, or fee.

18          (e) *EFFECTIVE DATE*.—This section shall take effect on  
 19          June 1, 1994.

20   **SEC. 305. POLE ATTACHMENTS.**

21          Section 224 of the Communications Act of 1934 (47  
 22          U.S.C. 224) is amended as follows—

23               (1) by inserting “or provider of telecommuni-  
 24               cations service” in subsection (a)(4) after “system”;

1           (2) by striking “cable television services” in sub-  
2           section (c)(2)(B) and inserting “the services offered  
3           via such attachments”;

4           (3) by redesignating paragraph (2) of subsection  
5           (d) as paragraph (4); and

6           (4) by striking out so much of subsection (d) as  
7           precedes paragraph (4) (as redesignated) and insert-  
8           ing the following:

9           “(d)(1) For purposes of subsection (b) of this section,  
10          the Commission shall, no later than 1 year after the date  
11          of enactment of the Communications Act of 1994, prescribe  
12          regulations for ensuring that utilities charge just and rea-  
13          sonable and nondiscriminatory rates for pole attachments  
14          provided to all providers of telecommunications services, in-  
15          cluding such attachments used by cable television systems  
16          to provide telecommunications services (as defined in sec-  
17          tion 3(jj) of this Act). The regulations shall—

18               “(A) recognize that the entire pole, duct, conduit,  
19               or right-of-way, other than the usable space, is of  
20               equal benefit to all attachments to the pole, duct, con-  
21               duit, or right-of-way and therefore apportion the cost  
22               of space, other than the usable space, equally among  
23               all such attachments,

24               “(B) recognize that the usable space is of propor-  
25               tional benefit to all entities attached to the pole, duct,

1       conduit, or right-of-way and therefore apportion the  
2       cost of the usable space according to the percentage of  
3       usable space required for each entity, and

4               “(C) allow for reasonable terms and conditions  
5       relating to health, safety, and the provision of reliable  
6       utility service.

7       “(2) The final regulations prescribed by the Commis-  
8       sion under paragraph (1) shall not apply to a pole attach-  
9       ment used by a cable television system solely to provide  
10      cable services as defined in section 602(6) of this Act. The  
11      rates for pole attachments used for such purposes shall as-  
12      sure a utility the recovery of not less than the additional  
13      costs of providing pole attachments, nor more than an  
14      amount determined by multiplying—

15              “(A) the percentage of total usable space, or the  
16      percentage of the total duct, conduit, or right-of-way  
17      capacity occupied by the pole attachment, by

18              “(B) the sum of the operating expenses and ac-  
19      tual capital costs of the utility attributable to the en-  
20      tire pole, duct, conduit, or right-of-way.

21       “(3) For all providers of telecommunications services  
22      except members of the exchange carrier association estab-  
23      lished under 47 C.F.R. 69.601 as of December 31, 1993,  
24      upon enactment of the Communications Act of 1994 and  
25      until the Commission promulgates its final regulations

1 under paragraph (1), the rate formula contained in any  
 2 joint use pole attachment agreement between the electric  
 3 utility and the largest local exchange carrier having such  
 4 a joint use agreement in the utility's service area in effect  
 5 on January 1, 1994, shall also apply to the pole attach-  
 6 ments in the utility's service area. If no such joint use  
 7 agreement containing a rate formula exists, then the pole  
 8 attachment rate shall be the rate applicable under para-  
 9 graph (2) to the cable television systems which solely pro-  
 10 vide cable service as defined in section 602(6) of this Act.  
 11 Disputes concerning the applicability of a joint use agree-  
 12 ment shall be resolved by the Commission or the States, as  
 13 appropriate.”.

14 **SEC. 306. CARRIER OF LAST RESORT.**

15 Section 214(d) of the Communications Act of 1934 (47  
 16 U.S.C. 214(d)) is amended by inserting “(1)” before “The  
 17 Commission” and by adding at the end the following new  
 18 paragraphs:

19 “(2) If one or more common carriers provide  
 20 telecommunications service to a geographic area, and  
 21 no common carrier will provide universal service to  
 22 an unserved community or any portion thereof that  
 23 requests such service within such area, or to a public  
 24 institutional telecommunications user which makes a  
 25 bona fide request under section 201C, then the Com-



1     *mission shall determine which common carrier serv-*  
2     *ing that area is best able to provide universal service*  
3     *to the requesting unserved community or portion*  
4     *thereof, or the requesting public institutional tele-*  
5     *communications user, and shall designate such com-*  
6     *mon carrier as a carrier of last resort for that*  
7     *unserved community, portion thereof, or user.*

8             *“(3) In order to be designated as a carrier of last*  
9     *resort eligible for universal service support payments*  
10    *under section 201A, a common carrier must agree to*  
11    *provide, either through its own facilities or through*  
12    *resale of services using another carrier’s facilities, the*  
13    *services encompassed within the definition of univer-*  
14    *sal service to any community or portion thereof which*  
15    *requests such service, and to any public institutional*  
16    *telecommunications user which makes a bona fide re-*  
17    *quest, within the applicable service area. Such serv-*  
18    *ices must be offered at nondiscriminatory rates estab-*  
19    *lished by the Commission throughout such service*  
20    *area, and such carrier must advertise the availability*  
21    *of such services and the applicable nondiscriminatory*  
22    *rates throughout such service area using media of*  
23    *general distribution. More than one common carrier*  
24    *may be designated as a carrier of last resort for a*  
25    *specific service area, provided that any additional*

1     *common carrier seeking carrier of last resort designa-*  
2     *tion agrees to provide, either through its own facilities*  
3     *or through resale of services using another carrier's*  
4     *facilities, the services encompassed within the defini-*  
5     *tion of universal service to any community or portion*  
6     *thereof which requests such service, and to any public*  
7     *institutional telecommunications user which makes a*  
8     *bona fide request, within the same service area as the*  
9     *first common carrier designated as a carrier of last*  
10    *resort for such service area under this paragraph.*  
11    *Such services must be offered at nondiscriminatory*  
12    *rates established by the Commission throughout such*  
13    *service area, and any such additional carrier of last*  
14    *resort must advertise the availability of such services*  
15    *and the applicable nondiscriminatory rates through-*  
16    *out such service area using media of general distribu-*  
17    *tion.*

18           “(4) A common carrier designated by the Com-  
19    *mission as the carrier of last resort under paragraphs*  
20    *(2) or (3) that refuses to provide universal service*  
21    *within a reasonable period to such requesting*  
22    *unserved community, portion thereof, or user shall*  
23    *forfeit to the United States a fine of up to \$10,000*  
24    *for each day that such carrier refuses to provide such*  
25    *service. In establishing a reasonable period, the Com-*

1     *mission shall consider the nature of any construction*  
2     *required to serve such requesting unserved commu-*  
3     *nity, portion thereof, or user, as well as the construc-*  
4     *tion intervals normally attending such construction,*  
5     *and shall allow adequate time for regulatory approv-*  
6     *als and acquisition of necessary financing.*

7             *“(5) The Commission shall designate a carrier of*  
8     *last resort for interexchange services for any unserved*  
9     *community or portion thereof requesting such service.*  
10    *Any common carrier designated as the carrier of last*  
11    *resort for interexchange services under this section*  
12    *shall provide interexchange services encompassed*  
13    *within the definition of universal service to any*  
14    *unserved community or portion thereof which requests*  
15    *such service. Such service shall be at nationwide geo-*  
16    *graphically averaged rates for interstate*  
17    *interexchange services and at geographically averaged*  
18    *rates for intrastate interexchange services, and shall*  
19    *be just and reasonable and not unjustly or unreason-*  
20    *ably discriminatory. A common carrier designated as*  
21    *the carrier of last resort for interexchange services*  
22    *under this paragraph may, if the Commission finds*  
23    *the public interest so requires, be eligible for universal*  
24    *service support payments under section 201A. A com-*  
25    *mon carrier designated as the carrier of last resort for*

14 **SEC. 307. ADDITIONAL REQUIREMENTS FOR CERTAIN CAR-**  
15 **RIERS IN ALASKA.**

**S 1822 RS**

1 *such carrier or affiliate, even if it would not otherwise*  
2 *apply, if the carrier or affiliate—*

3 *(1) owns or controls more than 2 percent of the*  
4 *telephone exchange or cable access lines in the United*  
5 *States; or*

6 *(2) controls more than 40 percent of the market*  
7 *nationwide in the United States for interexchange*  
8 *services.*

9 *(b) WAIVER PERMITTED WHEN REQUIREMENT NO*  
10 *LONGER APPLIES IN AREA.—Notwithstanding subsection*  
11 *(a), the Commission may waive or modify any rule, regula-*  
12 *tion, or other requirement applied to a telecommunications*  
13 *carrier or its affiliate under subsection (a) in a particular*  
14 *service area at any time that the rule, regulation, or other*  
15 *requirement ceases to apply to all other telecommunications*  
16 *carriers providing telephone exchange or telephone exchange*  
17 *access service, as applicable, in that service area in Alaska.*

18 *(c) SECTION INAPPLICABLE IN CERTAIN CIR-*  
19 *CUMSTANCES.—Subsection (a) shall not apply in any in-*  
20 *stance in which a telecommunications carrier or affiliate*  
21 *described in subsection (a) enters or seeks to enter a service*  
22 *area in Alaska in which the dominant telecommunications*  
23 *carrier or affiliate is also described in subsection (a).*

1       (d) *DEFINITIONS.*—Any term used in this section that  
 2   is defined in the Communications Act of 1934 has the same  
 3   meaning as when that term is used in that Act.

4       ***TITLE IV—AUTHORIZED ACTIVITIES OF***  
 5               ***BELL OPERATING COMPANIES***

6       ***Subtitle A—Telecommunications Equipment***  
 7       ***Research and Manufacturing Competition***

8       ***SEC. 401. FINDINGS.***

9       *The Congress finds that the continued economic growth*  
 10   *and the international competitiveness of American industry*  
 11   *would be assisted by permitting the Bell operating compa-*  
 12   *nies, through their affiliates, to manufacture (including de-*  
 13   *sign, development, and fabrication) telecommunications*  
 14   *equipment and customer premises equipment, and to engage*  
 15   *in research with respect to such equipment.*

16       ***SEC. 402. AMENDMENT TO COMMUNICATIONS ACT OF 1934.***

17       *Title II of the Communications Act of 1934 (47 U.S.C.*  
 18   *201 et seq.) is amended by inserting after section 230 the*  
 19   *following new section:*

20       ***“SEC. 231. REGULATION OF MANUFACTURING BY BELL OP-***  
 21               ***ERATING COMPANIES.***

22       *“(a) AUTHORIZATION.—Subject to the requirements of*  
 23   *this section and the regulations prescribed thereunder, a*  
 24   *Bell operating company, through an affiliate of that com-*  
 25   *pany, notwithstanding any restriction or obligation im-*

1 posed before the date of enactment of the Communications  
 2 Act of 1994 pursuant to the Modification of Final Judg-  
 3 ment on the lines of business in which a Bell operating com-  
 4 pany may engage, may manufacture and provide tele-  
 5 communications equipment and manufacture customer  
 6 premises equipment, except that neither a Bell operating  
 7 company nor any of its affiliates may engage in such man-  
 8 ufacturing in conjunction with a Bell operating company  
 9 not so affiliated or any of its affiliates. Nothing in this sec-  
 10 tion shall provide any authority for Bell Communications  
 11 Research, or any successor entity, to manufacture or pro-  
 12 vide telecommunications equipment or to manufacture cus-  
 13 tomer premises equipment.

14       “(b) REQUIREMENT FOR SEPARATE AFFILIATE.—Any  
 15 manufacturing or provision authorized under subsection (a)  
 16 shall be conducted only through an affiliate (referred to else-  
 17 where in this section to as a ‘manufacturing affiliate’) that  
 18 is separate from any Bell operating company entity that  
 19 provides regulated local telephone exchange service. The af-  
 20 filiate required by this section need not be separate from  
 21 affiliates required in sections 233, 235, and 613 of this Act  
 22 or any other affiliate that does not provide regulated local  
 23 telephone exchange service.

24       “(c) MANUFACTURING RULES.—

1           “(1) *BOOKS, RECORDS, ACCESS, AND FINANCIAL*  
2     *STATEMENTS.*—

3           “(A) *A manufacturing affiliate shall main-*  
4     *tain books, records, and accounts separate from*  
5     *its affiliated Bell operating company and iden-*  
6     *tify all transactions between the manufacturing*  
7     *affiliate and its affiliated Bell operating com-*  
8     *pany.*

9           “(B) *The Commission and the State com-*  
10    *missions that exercise regulatory authority over*  
11    *any Bell operating company affiliated with such*  
12    *manufacturing affiliate shall have access to the*  
13    *books, records, and accounts required to be pre-*  
14    *pared under subparagraph (A).*

15          “(C) *A manufacturing affiliate, even if it is*  
16    *not a publicly-held corporation, shall prepare fi-*  
17    *nancial statements in compliance with Federal*  
18    *financial reporting requirements for publicly-*  
19    *held corporations, shall file such statements with*  
20    *the Commission and the State commissions that*  
21    *exercise regulatory authority over any Bell oper-*  
22    *ating company affiliated with such manufactur-*  
23    *ing affiliate, and shall make such statements*  
24    *available for public inspection.*



1           “(2) *CERTAIN RELATED-PARTY ACTIVITIES PRO-*  
2           *HIBITED.*—Neither a Bell operating company nor any  
3           of its nonmanufacturing affiliates may perform sales,  
4           advertising, installation, production, or maintenance  
5           operations for a manufacturing affiliate of that Bell  
6           operating company; except that institutional advertis-  
7           ing, of a type not related to specific telecommuni-  
8           cations equipment, carried out by the Bell operating  
9           company or its affiliates is permitted if each party  
10          pays its pro rata share.

11          “(3) *MANUFACTURING ACTIVITIES TO BE CAR-*  
12          *RIED OUT IN THE UNITED STATES.*—

13               “(A) A manufacturing affiliate shall con-  
14               duct all of its manufacturing within the United  
15               States and, except as otherwise provided in this  
16               paragraph, all component parts of customer  
17               premises equipment manufactured by such affili-  
18               ate, and all component parts of telecommuni-  
19               cations equipment manufactured by such affili-  
20               ate, shall be manufactured within the United  
21               States.

22               “(B) A manufacturing affiliate may use  
23               component parts manufactured outside the  
24               United States if—

1           “(i) the affiliate first makes a good  
2           faith effort to obtain equivalent component  
3           parts manufactured within the United  
4           States at reasonable prices, terms, and con-  
5           ditions; and

6           “(ii) for the aggregate of telecommuni-  
7           cations equipment and customer premises  
8           equipment manufactured and sold in the  
9           United States by such affiliate in any cal-  
10          endar year, the cost of the components man-  
11          ufactured outside the United States con-  
12          tained in the equipment does not exceed 40  
13          percent of the sales revenue derived from  
14          such equipment.

15          “(4) CERTIFICATION REQUIRED.—An affiliate  
16          that uses component parts manufactured outside the  
17          United States in the manufacture of telecommuni-  
18          cations equipment and customer premises equipment  
19          within the United States shall—

20               “(A) certify to the Commission that a good  
21               faith effort was made to obtain equivalent parts  
22               manufactured within the United States at rea-  
23               sonable prices, terms, and conditions, which cer-  
24               tification shall be filed on a quarterly basis with  
25               the Commission and list component parts, by

1       *type, manufactured outside the United States;*  
2       *and*

3               *“(B) certify to the Commission on an an-*  
4       *nual basis that, for the aggregate of tele-*  
5       *communications equipment and customer prem-*  
6       *ises equipment manufactured and sold in the*  
7       *United States by such affiliate in the previous*  
8       *calendar year, the cost of the components manu-*  
9       *factured outside the United States contained in*  
10       *such equipment did not exceed the percentage*  
11       *specified in paragraph (3)(B)(ii) or as adjusted*  
12       *in accordance with paragraph (8).*

13       *“(5) PENALTIES AND PRIVATE RIGHT OF AC-*  
14       *TION.—*

15               *“(A) If the Commission determines, after re-*  
16       *viewing the certification required by paragraph*  
17       *(4), that such affiliate failed to make the good*  
18       *faith effort required in paragraph (3)(B)(i) or,*  
19       *after reviewing the certification required by*  
20       *paragraph (4), that such affiliate has exceeded*  
21       *the percentage specified in paragraph (3)(B)(ii),*  
22       *the Commission may impose penalties or forfeit-*  
23       *ures as provided for in title V of this Act.*

24               *“(B) Any supplier claiming to be damaged*  
25       *because a manufacturing affiliate failed to make*

1       the good faith effort required in paragraph  
2       (3)(B)(i) may file a complaint with the Commis-  
3       sion as provided for in section 208 of this Act,  
4       or may bring suit for the recovery of actual  
5       damages for which such supplier claims such af-  
6       filiate may be liable under the provisions of this  
7       Act in any district court of the United States of  
8       competent jurisdiction.

9       “(6) DETERMINATION OF MARKET SHARE FOR  
10      FOREIGN PARTS.—The Commission, in consultation  
11      with the Secretary of Commerce, shall, on an annual  
12      basis, determine the cost of component parts manufac-  
13      tured outside the United States contained in all tele-  
14      communications equipment and customer premises  
15      equipment sold in the United States as a percentage  
16      of the revenues from sales of such equipment in the  
17      previous calendar year.

18      “(7) FOREIGN INTELLECTUAL PROPERTY USE  
19      PERMITTED.—Notwithstanding any other provision of  
20      this subsection, a manufacturing affiliate may use in-  
21      tellectual property created outside the United States  
22      in the manufacture of telecommunications equipment  
23      and customer premises equipment in the United  
24      States.

1           “(8) *ADJUSTMENT OF PARAGRAPH (3)(B)(ii) PER-*  
2           *CENTAGE.—The Commission may not waive or alter*  
3           *the requirements of this subsection, except that the*  
4           *Commission, on an annual basis, shall adjust the per-*  
5           *centage specified in paragraph (3)(B)(ii) to the per-*  
6           *centage determined by the Commission, in consulta-*  
7           *tion with the Secretary of Commerce, under para-*  
8           *graph (6).*

9           “(9) *OWNERSHIP AND DEBT REQUIREMENTS.—*  
10          *No more than 90 percent of the equity of a manufac-*  
11          *turing affiliate shall be owned by its affiliated Bell*  
12          *operating company and any affiliates of that Bell op-*  
13          *erating company. Any debt incurred by a manufac-*  
14          *turing affiliate may not be issued by its affiliates. A*  
15          *manufacturing affiliate may not incur debt in a*  
16          *manner that would permit a creditor, on default, to*  
17          *have recourse to the assets of its affiliated Bell operat-*  
18          *ing company’s telecommunications services business.*

19          “(10) *RELATIONSHIPS AMONG AFFILIATES.—A*  
20          *manufacturing affiliate is not required to operate sep-*  
21          *arately from the other affiliates of its affiliated Bell*  
22          *operating company, but if an affiliate of a Bell oper-*  
23          *ating company becomes directly affiliated with a*  
24          *manufacturing entity, the affiliate shall be treated as*  
25          *a manufacturing affiliate of that Bell operating com-*

1     pany within the meaning of subsection (b) and shall  
 2     comply with the requirements of this section.

3             “(11) *EQUIPMENT TO BE MADE AVAILABLE TO*  
 4     *OTHERS.*—A manufacturing affiliate shall make  
 5     available, without discrimination or self-preference as  
 6     to price, delivery, terms, or conditions, to all regu-  
 7     lated local telephone exchange carriers, for use with  
 8     the public telecommunications network, any tele-  
 9     communications equipment, including software inte-  
 10    gral to such telecommunications equipment, including  
 11    upgrades, manufactured by such affiliate so long as  
 12    each such purchasing carrier—

13             “(A) does not either manufacture tele-  
 14    communications equipment, or have a manufac-  
 15    turing affiliate which manufactures tele-  
 16    communications equipment; or

17             “(B) agrees to make available, to the Bell  
 18    operating company affiliated with such manu-  
 19    facturing affiliate or any of the regulated local  
 20    telephone exchange carrier affiliates of such Bell  
 21    company, any telecommunications equipment,  
 22    including software integral to such telecommuni-  
 23    cations equipment, including upgrades, manu-  
 24    factured for use with the public telecommuni-  
 25    cations network by such purchasing carrier or by

1           any entity or organization with which such pur-  
2           chasing carrier is affiliated.

3           “(12) SALES TO OTHER REGULATED LOCAL  
4           TELEPHONE EXCHANGE CARRIERS.—

5                   “(A) A manufacturing affiliate may not  
6                   discontinue or restrict sales to other regulated  
7                   local telephone exchange carriers of any tele-  
8                   communications equipment, including software  
9                   integral to such telecommunications equipment,  
10                  including upgrades, that such affiliate manufac-  
11                  tures for sale as long as there is reasonable de-  
12                  mand for the equipment by such carriers; except  
13                  that such sales may be discontinued or restricted  
14                  if such manufacturing affiliate demonstrates to  
15                  the Commission that it is not making a profit,  
16                  under a marginal cost standard implemented by  
17                  the Commission, on the sale of such equipment.

18                   “(B) In reaching a determination as to the  
19                   existence of reasonable demand under subpara-  
20                   graph (A), the Commission shall within 60 days  
21                   after receiving a request from a manufacturing  
22                   affiliate consider—

23                           “(i) whether the continued manufac-  
24                           ture of the equipment will be profitable;

1                   “(ii) whether the equipment is func-  
2                   tionally or technologically obsolete;

3                   “(iii) whether the components nec-  
4                   essary to manufacture the equipment con-  
5                   tinue to be available;

6                   “(iv) whether alternatives to the equip-  
7                   ment are available in the market; and

8                   “(v) such other factors as the Commis-  
9                   sion deems necessary and proper.

10                  “(13) JOINT NETWORK PLANNING.—A Bell oper-  
11                  ating company shall, consistent with the antitrust  
12                  laws, engage in joint network planning and design  
13                  with other regulated local telephone exchange carriers  
14                  operating in the same area of interest; except that no  
15                  participant in such planning shall be allowed to  
16                  delay the introduction of new technology or the de-  
17                  ployment of facilities to provide telecommunications  
18                  services, and agreement with such other carriers shall  
19                  not be required as a prerequisite for such introduction  
20                  or deployment.

21                  “(14) INFORMATION SHARING.—A Bell operating  
22                  company shall provide, to other regulated local tele-  
23                  phone exchange carriers operating in the same area  
24                  of interest, timely information on the planned deploy-  
25                  ment of telecommunications equipment, including



1     *software integral to such telecommunications equip-*  
 2     *ment, including upgrades.*

3             “(15) *REGULATIONS.*—*The Commission shall*  
 4     *prescribe regulations to carry out the provisions of*  
 5     *this subsection.*

6             “(d) *TELEPHONE EXCHANGE SERVICE REGULA-*  
 7     *TIONS.*—

8             “(1) *IN GENERAL.*—*The Commission shall pre-*  
 9     *scribe regulations to require each Bell operating com-*  
 10    *pany to maintain and file with the Commission full*  
 11    *and complete information with respect to the proto-*  
 12    *cols and technical requirements for connection with*  
 13    *and use of its telephone exchange service facilities.*  
 14    *Such regulations shall require each such Bell com-*  
 15    *pany to report promptly to the Commission any ma-*  
 16    *terial changes or planned changes to such protocols*  
 17    *and requirements, and the schedule for implementa-*  
 18    *tion of such changes or planned changes.*

19            “(2) *DISCLOSURE RESTRICTION.*—*A Bell operat-*  
 20    *ing company shall not disclose to any of its affiliates*  
 21    *any information required to be filed under paragraph*  
 22    *(1) unless that information is immediately so filed.*

23            “(3) *COMPETITORS’ ACCESS TO INFORMATION.*—  
 24    *The Commission may prescribe such additional regu-*  
 25    *lations under this subsection as may be necessary to*

1       *ensure that manufacturers in competition with a Bell*  
 2       *operating company's manufacturing affiliate have*  
 3       *ready and equal access to the information required*  
 4       *for such competition that such Bell company makes*  
 5       *available to its manufacturing affiliate.*

6       “(e) *REQUIREMENTS FOR BELL OPERATING COMPA-*  
 7       *NIES WITH MANUFACTURING AFFILIATE.*—*The Commis-*  
 8       *sion shall prescribe regulations requiring that any Bell op-*  
 9       *erating company which has an affiliate that engages in any*  
 10       *manufacturing authorized by subsection (a)—*

11               “(1) *shall provide, to other manufacturers of tele-*  
 12       *communications equipment and customer premises*  
 13       *equipment, opportunities to sell such equipment to*  
 14       *such Bell operating company which are comparable to*  
 15       *the opportunities which such company provides to its*  
 16       *affiliates;*

17               “(2) *shall not subsidize its manufacturing affili-*  
 18       *ate with revenues from its regulated telecommuni-*  
 19       *cations services; and*

20               “(3) *shall only purchase equipment from its*  
 21       *manufacturing affiliate at the open market price.*

22       “(f) *COLLABORATION WITH OTHER MANUFACTUR-*  
 23       *ERS.*—*A Bell operating company and its affiliates may en-*  
 24       *gage in close collaboration with any manufacturer of cus-*  
 25       *tomers' premises equipment or telecommunications equip-*

1 *ment not affiliated with a Bell operating company during*  
 2 *the design and development of hardware, software, or com-*  
 3 *binations thereof relating to such equipment, consistent*  
 4 *with subsection (e)(2).*

5       “(g) *ADDITIONAL RULES AND REGULATIONS.—The*  
 6 *Commission may prescribe such additional rules and regu-*  
 7 *lations as the Commission determines necessary to carry*  
 8 *out the provisions of this section.*

9       “(h) *ADMINISTRATION AND ENFORCEMENT.—*

10           “(1) *COMMISSION AUTHORITY.—For the purposes*  
 11 *of administering and enforcing the provisions of this*  
 12 *section and the regulations prescribed under this sec-*  
 13 *tion, the Commission shall have the same authority,*  
 14 *power, and functions with respect to any Bell operat-*  
 15 *ing company as the Commission has in administering*  
 16 *and enforcing the provisions of this title with respect*  
 17 *to any common carrier subject to this Act.*

18           “(2) *CIVIL ACTIONS BY INJURED CARRIERS.—*  
 19 *Any regulated local telephone exchange carrier in-*  
 20 *jured by an act or omission of a Bell operating com-*  
 21 *pany or its manufacturing affiliate which violates the*  
 22 *requirements of paragraph (11) or (12) of subsection*  
 23 *(c), or the Commission’s regulations implementing*  
 24 *such paragraphs, may initiate an action in a district*  
 25 *court of the United States to recover the full amount*

1       of damages sustained in consequence of any such vio-  
2       lation and obtain such orders from the court as are  
3       necessary to terminate existing violations and to pre-  
4       vent future violations; or such regulated local tele-  
5       phone exchange carrier may seek relief from the Com-  
6       mission pursuant to sections 206 through 209.

7       “(i) *EFFECTIVE DATES; DEADLINE.*—The authority of  
8       the Commission to prescribe regulations to carry out this  
9       section is effective on the date of enactment of the Commu-  
10      nications Act of 1994. The Commission shall prescribe such  
11      regulations within 180 days after such date of enactment,  
12      and the authority to engage in the manufacturing author-  
13      ized in subsection (a) shall not take effect until regulations  
14      prescribed by the Commission under subsections (c), (d),  
15      and (e) are in effect.

16      “(j) *EFFECT ON PREEXISTING MANUFACTURING AU-*  
17      *THORITY.*—Nothing in this section shall prohibit any Bell  
18      operating company from engaging, directly or through any  
19      affiliate, in any manufacturing activity in which any Bell  
20      operating company or affiliate was authorized to engage on  
21      the date of enactment of such Act.

22      “(k) *ANNUAL AUDIT.*—

23               “(1) *IN GENERAL.*—A Bell operating company  
24      that manufactures or provides telecommunications  
25      equipment or manufactures customer premises equip-

1        *ment through an affiliate shall obtain and pay for an*  
2        *annual audit conducted by an independent auditor*  
3        *selected by and working at the direction of the State*  
4        *commission of each State in which such Bell company*  
5        *provides local exchange service, to determine whether*  
6        *such Bell company has complied with this section and*  
7        *the regulations promulgated under this section, and*  
8        *particularly whether such Bell company has complied*  
9        *with the separate accounting requirements under sub-*  
10       *section (c)(1).*

11            *“(2) SUBMISSION OF AUDIT RESULTS.—The*  
12        *auditor described in paragraph (1) shall submit the*  
13        *results of such audit to the Commission and to the*  
14        *State commission of each State in which such Bell*  
15        *company provides telephone exchange service. Any*  
16        *party may submit comments on the final audit re-*  
17        *port.*

18            *“(3) PROCEDURES APPLICABLE TO AUDIT.—The*  
19        *audit required under paragraph (1) shall be con-*  
20        *ducted in accordance with procedures established by*  
21        *regulation by the State commission of the State in*  
22        *which such Bell company provides local exchange*  
23        *service, including requirements that each audit sub-*  
24        *mitted to the Commission and to the State commis-*

1        *sion is certified by the auditor responsible for con-*  
2        *ducting the audit.*

3            “(4) *COMMISSION REVIEW.*—*The Commission*  
4        *shall periodically review and analyze the audits sub-*  
5        *mitted to it under this subsection, and shall provide*  
6        *to the Congress every 2 years—*

7            “(A) *a report of its findings on the compli-*  
8        *ance of the Bell operating companies with this*  
9        *section and the regulations promulgated there-*  
10       *under; and*

11           “(B) *an analysis of the impact of such regu-*  
12       *lations on the affordability of local telephone ex-*  
13       *change service.*

14           “(5) *ACCESS TO ACCOUNTS AND RECORDS.*—*For*  
15       *purposes of conducting audits and reviews under this*  
16       *subsection, an independent auditor, the Commission,*  
17       *and the State commission shall have access to the fi-*  
18       *nancial accounts and records of each Bell operating*  
19       *company and those of its affiliates (including affili-*  
20       *ates described in paragraphs (9) and (10) of sub-*  
21       *section (c)) necessary to verify transactions conducted*  
22       *with such Bell operating company that are relevant*  
23       *to the specific activities permitted under this section*  
24       *and that are necessary to the State’s regulation of*  
25       *telephone rates. Each State commission shall imple-*

1        *ment appropriate procedures to ensure the protection*  
2        *of any proprietary information submitted to it under*  
3        *this section.*

4        *“(l) ACCESSIBILITY REQUIREMENTS.—*

5                *“(1) IN GENERAL.—The Bell operating compa-*  
6        *nies or their manufacturing affiliates shall ensure*  
7        *that telecommunications equipment and customer*  
8        *premises equipment designed, developed, and fab-*  
9        *ricated pursuant to the authority granted in this sec-*  
10       *tion shall be accessible and usable by individuals with*  
11       *disabilities, including individuals with functional*  
12       *limitations of hearing, vision, movement, manipula-*  
13       *tion, speech, and interpretation of information, unless*  
14       *the costs of making the equipment accessible and usa-*  
15       *ble would result in an undue burden or an adverse*  
16       *competitive impact.*

17                *“(2) COMPATIBILITY.—Whenever an undue bur-*  
18       *den or adverse competitive impact would result from*  
19       *the requirements in this subsection, the Bell operating*  
20       *company or its manufacturing affiliate that designs,*  
21       *develops, or fabricates the equipment shall ensure that*  
22       *such equipment is compatible with existing peripheral*  
23       *devices or specialized customer premises equipment*  
24       *commonly used by persons with disabilities to achieve*

1       *access, unless doing so would result in an undue bur-*  
2       *den or adverse competitive impact.*

3           “(3) *DEFINITIONS.*—*As used in this subsection:*

4               “(A) *UNDUE BURDEN.*—*The term ‘undue*  
5       *burden’ means significant difficulty or expense.*  
6       *In determining whether an activity would result*  
7       *in an undue burden, factors to be considered*  
8       *include—*

9                   “(i) *the nature and cost of the activity;*

10                  “(ii) *the impact on the operation of the*  
11       *facility involved in the manufacturing of*  
12       *the equipment;*

13                  “(iii) *the financial resources of the*  
14       *manufacturing affiliate, or of the Bell oper-*  
15       *ating company if the manufacturing activi-*  
16       *ties are not conducted in a separate subsidi-*  
17       *ary; and*

18                  “(iv) *the type of operation or oper-*  
19       *ations of the manufacturing affiliate, or*  
20       *Bell operating company, as the case may*  
21       *be.*

22               “(B) *ADVERSE COMPETITIVE IMPACT.*—*In*  
23       *determining whether an activity would result in*  
24       *an adverse competitive impact, the following fac-*  
25       *tors will be considered:*



1           “(i) Whether such activity would raise  
2           the cost of the equipment in question beyond  
3           the level at which there would be sufficient  
4           consumer demand by the general population  
5           to make the equipment profitable.

6           “(ii) Whether such activity would, with  
7           respect to the equipment in question, put  
8           the manufacturing affiliate, or the Bell op-  
9           erating company if the manufacturing ac-  
10          tivities are not conducted in a separate sub-  
11          sidiary, at a competitive disadvantage in  
12          comparison with one or more providers of  
13          one or more competing products. This factor  
14          may only be considered so long as compet-  
15          ing manufacturers are not held to the same  
16          obligation with respect to access by persons  
17          with disabilities.

18          “(C) ACTIVITY.—For purposes of this para-  
19          graph, the term ‘activity’ includes—

20               “(i) the research, design, development,  
21               deployment, and fabrication activities nec-  
22               essary to comply with the requirements of  
23               this section; and

24               “(ii) the acquisition of the related ma-  
25               terials and equipment components.

1           “(4) *IMPACT OF ADA.*—Nothing in this section  
2           shall be interpreted to limit or otherwise affect the ap-  
3           plication of the Americans with Disabilities Act or its  
4           implementing regulations.

5           “(m) *DEFINITIONS.*—As used in this section:

6           “(1) The term ‘affiliate’ means any organization  
7           or entity that, directly or indirectly, owns or controls,  
8           is owned or controlled by, or is under common owner-  
9           ship with a Bell operating company. The term in-  
10          cludes any organization or entity in which a Bell op-  
11          erating company and any of its affiliates—

12                 “(A) have an equity interest of greater than  
13                 10 percent, or a management interest of greater  
14                 than 10 percent, or

15                 “(B) in which a Bell operating company  
16                 and any of its affiliates have any other signifi-  
17                 cant financial interest.

18           “(2) The term ‘Bell operating company’ means  
19           those companies listed in appendix A of the Modifica-  
20           tion of Final Judgment, and includes any successor  
21           or assign of any such company, but does not include  
22           any affiliate of any such company.

23           “(3) The term ‘customer premises equipment’  
24           means equipment employed on the premises of a per-

1       son (other than a carrier) to originate, route, or ter-  
2       minate telecommunications.

3           “(4) The term ‘manufacturing’ has the same  
4       meaning as such term has in the Modification of  
5       Final Judgment.

6           “(5) The term ‘Modification of Final Judgment’  
7       means the decree entered August 24, 1982, in United  
8       States v. Western Electric, Civil Action No. 82-0192  
9       (United States District Court, District of Columbia).

10          “(6) The term ‘telecommunications’ means the  
11       transmission, between or among points specified by  
12       the user, of information of the user’s choosing, without  
13       change in the form or content of the information as  
14       sent and received, by means of an electromagnetic  
15       transmission medium, including all instrumentalities,  
16       facilities, apparatus, and services (including the col-  
17       lection, storage, forwarding, switching, and delivery  
18       of such information) essential to such transmission.

19          “(7) The term ‘telecommunications equipment’  
20       means equipment, other than customer premises  
21       equipment, used by a carrier to provide telecommuni-  
22       cations services.

23          “(8) The term ‘telecommunications service’  
24       means the offering for hire of telecommunications fa-

5        *Section 220(d) of the Communications Act of 1934 (47*  
6 *U.S.C. 220(d)) is amended by striking “\$6,000” and insert-*  
7 *ing “\$10,000”.*

9        *Nothing in this subtitle shall be deemed to alter the*  
10 *application of Federal and State antitrust laws as inter-*  
11 *preted by the respective courts.*

15 **SEC. 421. REGULATION OF ENTRY INTO ALARM MONITOR-**  
16 **ING SERVICES.**

17        *AMENDMENT.—Title II of the Communications Act of*  
18    *1934 (47 U.S.C. 201 et seq.) is amended by inserting after*  
19    *section 231 the following new section:*

22       “(a) *IN GENERAL.*—Except as provided in subsection  
23   (c), no Bell operating company, or any affiliate of that com-  
24   pany, shall provide alarm monitoring services for the pro-  
25   tection of life, safety, or property. A Bell operating com-

1 pany may transport alarm monitoring service signals but  
 2 on a common carrier basis only.

3 “(b) *AUTHORITY TO PETITION.*—Beginning 5½ years  
 4 from the date of enactment of the Communications Act of  
 5 1994, a Bell operating company or any affiliate of that  
 6 company may petition the Commission to seek permission  
 7 to provide alarm monitoring services for the protection of  
 8 life, safety, or property.

9 “(c) *AUTHORITY TO PERMIT BELL OPERATING COM-*  
 10 *PANIES TO PROVIDE SERVICES.*—Beginning 6 years from  
 11 the date of enactment of the Communications Act of 1994,  
 12 the Commission shall have the authority to permit a Bell  
 13 operating company to provide alarm monitoring services  
 14 for the protection of life, safety, or property; except that the  
 15 Commission shall not grant such permission until—

16 “(1) the Department of Justice finds that there  
 17 is no substantial possibility that such Bell company  
 18 or its affiliates could use monopoly power to impede  
 19 competition in the market such Bell company seeks to  
 20 enter; and

21 “(2) the Commission finds that the provision of  
 22 alarm monitoring services by the Bell operating com-  
 23 pany is in the public interest and that the Commis-  
 24 sion has the capability effectively to enforce any re-  
 25 quirements, limitations, or conditions placed upon the

1 *Bell operating company in the provision of alarm*  
2 *monitoring services for the protection of life, safety, or*  
3 *property, including the regulations it has prescribed*  
4 *pursuant to subsection (d).*

5 *“(d) REGULATIONS REQUIRED.—*

6 *“(1) Not later than 6 years after the date of en-*  
7 *actment of the Communications Act of 1994, the Com-*  
8 *mission shall prescribe regulations—*

9 *“(A) to establish such requirements, limita-*  
10 *tions, or conditions as are—*

11 *“(i) necessary and appropriate in the*  
12 *public interest with respect to the provision*  
13 *of alarm monitoring services by Bell operat-*  
14 *ing companies and their affiliates, and*

15 *“(ii) effective at such time as a Bell*  
16 *operating company or any of its affiliates is*  
17 *authorized to provide alarm monitoring*  
18 *services; and*

19 *“(B) to establish procedures for the receipt*  
20 *and review of complaints concerning violations*  
21 *by such companies of such regulations, or of any*  
22 *other provision of this Act or the regulations*  
23 *thereunder, that result in material financial*  
24 *harm to a provider of alarm monitoring services.*

1           “(2) *The Bell operating companies and their af-*  
2           *filates are prohibited from recording or using in any*  
3           *fashion the occurrence or contents of calls received by*  
4           *providers of alarm monitoring services for the pur-*  
5           *poses of marketing such services on behalf of the Bell*  
6           *operating company, any of its affiliates, or any other*  
7           *entity. Any regulations necessary to enforce this para-*  
8           *graph shall be issued within 6 months after the date*  
9           *of enactment of the Communications Act of 1994.*

10          “(e) *EXPEDITED CONSIDERATION OF COMPLAINTS.—*  
11          *The procedures established under subsection (d) shall ensure*  
12          *that the Commission will make a final determination with*  
13          *respect to any complaint described in such subsection with-*  
14          *in 120 days after receipt of the complaint. If the complaint*  
15          *contains an appropriate showing that the alleged violation*  
16          *occurred, as determined by the Commission in accordance*  
17          *with such regulations, the Commission shall, within 60*  
18          *days after receipt of the complaint, issue a cease and desist*  
19          *order to prevent the Bell operating company and its affili-*  
20          *ates from continuing to engage in such violation pending*  
21          *such final determination.*

22          “(f) *REMEDIES.—The Commission may use any rem-*  
23          *edy available under title V of this Act to terminate and*  
24          *punish violations described in subsection (d). Such remedies*  
25          *may include, if the Commission determines that such viola-*

1 *tion was willful or repeated, ordering the Bell operating*  
2 *company to cease offering alarm monitoring services.*

3 *“(g) DEFINITIONS.—As used in this section:*

4 *“(1) The term ‘alarm monitoring services’ means*  
5 *services that detect threats to life, safety, or property*  
6 *by burglary, fire, vandalism, bodily injury, or other*  
7 *emergency through the use of devices that transmit*  
8 *signals to a central point in a customer’s residence,*  
9 *place of business, or other fixed premises which—*

10 *“(A) retransmits such signals to a remote*  
11 *monitoring center by means of telecommuni-*  
12 *cations facilities of the Bell operating company*  
13 *and any affiliate; and*

14 *“(B) serves to alert persons at the monitor-*  
15 *ing center of the need to inform customers, other*  
16 *persons, or police, fire, rescue, or other security*  
17 *or public safety personnel of the threat at such*  
18 *premises.*

19 *Such term does not include medical monitoring de-*  
20 *vices attached to individuals for the automatic sur-*  
21 *veillance of ongoing medical conditions.*

22 *“(2) The term ‘Bell operating company’ has the*  
23 *meaning given that term in section 233 of this Act.*

24 *“(3) The term ‘affiliate’ means a person that (di-*  
25 *rectly or indirectly) owns or controls, is owned or*



1       *controlled by, or is under common ownership or con-*  
 2       *trol with, another person. For purposes of this para-*  
 3       *graph, the term 'own' means to own an equity inter-*  
 4       *est (or the equivalent thereof) of more than 10*  
 5       *percent."*

6       **SEC. 422. REGULATION OF ELECTRONIC PUBLISHING.**

7       *Title II of the Communications Act of 1934 (47 U.S.C.*  
 8       *201 et seq.) is amended by inserting after section 232 the*  
 9       *following new section:*

10      **"SEC. 233. REGULATION OF ELECTRONIC PUBLISHING.**

11      *"(a) IN GENERAL.—*

12           *"(1) A Bell operating company and any affiliate*  
 13       *shall not engage in the provision of electronic publish-*  
 14       *ing that is disseminated by means of such Bell oper-*  
 15       *ating company's or any of its affiliates' basic tele-*  
 16       *phone service.*

17           *"(2) Nothing in this section shall prohibit a sep-*  
 18       *arated affiliate or electronic publishing joint venture*  
 19       *from engaging in the provision of electronic publish-*  
 20       *ing or any other lawful service in any area. Any sep-*  
 21       *arated affiliate or electronic publishing joint venture*  
 22       *permitted by this section need not be separate from*  
 23       *affiliates required in sections 231, 235, and 613 of the*  
 24       *Act or any other affiliate that does not provide regu-*  
 25       *lated local telephone exchange service.*

1           “(3) *Nothing in this section shall prohibit a Bell*  
2           *operating company or affiliate from engaging in the*  
3           *provision of any lawful service other than electronic*  
4           *publishing in any area or from engaging in the pro-*  
5           *vision of electronic publishing that is not dissemi-*  
6           *nated by means of such Bell operating company’s or*  
7           *any of its affiliates’ basic telephone service.*

8           “(b) *SEPARATED AFFILIATE OR ELECTRONIC PUB-*  
9           *LISHING JOINT VENTURE REQUIREMENTS.—A separated*  
10          *affiliate or electronic publishing joint venture shall—*

11           “(1) *maintain books, records, and accounts that*  
12           *are separate from those of the Bell operating company*  
13           *and from any affiliate and which record in accord-*  
14           *ance with generally accepted accounting principles all*  
15           *transactions, whether direct or indirect, with the Bell*  
16           *operating company;*

17           “(2) *not incur debt in a manner that would per-*  
18           *mit a creditor upon default to have recourse to the as-*  
19           *sets of the Bell operating company;*

20           “(3) *prepare financial statements that are not*  
21           *consolidated with those of the Bell operating company*  
22           *or any affiliate, although consolidated statements may*  
23           *also be prepared for other purposes;*

24           “(4) *file with the Commission annual reports in*  
25           *a form substantially equivalent to the Form 10-K ref-*

1 *erenced at 17 CFR 249.310 as that section and form*  
2 *are in effect on the date of enactment of the Commu-*  
3 *nications Act of 1994;*

4 *“(5) after 1 year from that date, not hire as—*

5 *“(A) corporate officers,*

6 *“(B) sales and marketing management per-*  
7 *sonnel whose responsibilities at the separated af-*  
8 *iliate or electronic publishing joint venture will*  
9 *include the geographic area where the Bell oper-*  
10 *ating company provides basic telephone service,*  
11 *or*

12 *“(C) network operations personnel whose re-*  
13 *sponsibilities at the separated affiliate or elec-*  
14 *tronic publishing joint venture would require*  
15 *dealing directly with the Bell operating com-*  
16 *pany,*

17 *any person who was employed by the Bell operating*  
18 *company during the year preceding that person’s date*  
19 *of hire, other than a person subject to a collective bar-*  
20 *gaining agreement that gives such person the right to*  
21 *be employed by a separated affiliate or electronic pub-*  
22 *lishing joint venture of the Bell operating company;*

23 *“(6) not provide any wireline telephone exchange*  
24 *service in any telephone exchange area where a Bell*  
25 *operating company with which it is under common*

1        *ownership or control provides basic telephone ex-*  
2        *change service except on a resale basis;*

3            *“(7) not use the name, trademarks, or service*  
4        *marks of an existing Bell operating company except*  
5        *for names, trademarks, or service marks that are or*  
6        *were used in common with the entity that owns or*  
7        *controls the Bell operating company;*

8            *“(8) have performed annually by March 31, or*  
9        *any other date prescribed by the Commission, a com-*  
10       *pliance review which—*

11           *“(A) must be conducted by an independent*  
12        *entity which is subject to professional, legal, and*  
13        *ethical obligations for the purpose of determining*  
14        *compliance during the preceding calendar year*  
15        *with any provision of this section that imposes*  
16        *a requirement on such separated affiliate or elec-*  
17        *tronic publishing joint venture; and*

18           *“(B) must be maintained by the separated*  
19        *affiliate for a period of 5 years subject to review*  
20        *by any lawful authority; and*

21           *“(9) within 90 days of receiving a review de-*  
22        *scribed in paragraph (8), file a report of any excep-*  
23        *tions and any corrective action with the Commission*  
24        *and allow any person to inspect and copy such report*  
25        *subject to reasonable safeguards to protect any propri-*

1        *etary information contained in such report from*  
2        *being used for purposes other than to enforce or pur-*  
3        *sue remedies under this section.*

4        *“(c) BELL OPERATING COMPANY REQUIREMENTS.—A*  
5        *Bell operating company under common ownership or con-*  
6        *trol with a separated affiliate or electronic publishing joint*  
7        *venture shall—*

8                *“(1) not provide a separated affiliate any facili-*  
9                *ties, services, or basic telephone service information*  
10               *unless it makes such facilities, services, or informa-*  
11               *tion available to unaffiliated entities upon request*  
12               *and on the same terms and conditions;*

13               *“(2) carry out transactions with a separated af-*  
14               *filiate in a manner equivalent to the manner that un-*  
15               *related parties would carry out independent trans-*  
16               *actions and not based upon the affiliation;*

17               *“(3) carry out transactions with a separated af-*  
18               *filiate, which involve the transfer of personnel, assets,*  
19               *or anything of value, pursuant to written contracts or*  
20               *tariffs that are filed with the Commission and made*  
21               *publicly available;*

22               *“(4) carry out transactions with a separated af-*  
23               *filiate in a manner that is auditable in accordance*  
24               *with generally accepted accounting principles;*

1           “(5) value any assets that are transferred to a  
2           separated affiliate at the greater of net book cost or  
3           fair market value;

4           “(6) value any assets that are transferred to it  
5           by its separated affiliate at the lesser of net book cost  
6           or fair market value;

7           “(7) except for—

8                 “(A) instances where Commission or State  
9                 regulations permit in-arrears payment for  
10                tariffed telecommunications services, or

11               “(B) the investment by an affiliate of divi-  
12               dends or profits derived from a Bell operating  
13               company,

14           not provide debt or equity financing directly or indi-  
15           rectly to a separated affiliate;

16           “(8) comply fully with all applicable Commis-  
17           sion and State cost allocation and other accounting  
18           rules;

19           “(9) have performed annually by March 31, or  
20           any other date prescribed by the Commission, a com-  
21           pliance review which—

22               “(A) must be conducted by an independent  
23               entity which is subject to professional, legal, and  
24               ethical obligations for the purpose of determining  
25               compliance during the preceding calendar year

1       with any provision of this section that imposes  
2       a requirement on such Bell operating company;  
3       and

4               “(B) must be maintained by the Bell oper-  
5       ating company for a period of 5 years subject to  
6       review by any lawful authority;

7               “(10) within 90 days of receiving a review de-  
8       scribed in paragraph (9), file a report of any excep-  
9       tions and any corrective action with the Commission  
10      and allow any person to inspect and copy such report  
11      subject to reasonable safeguards to protect any propri-  
12      etary information contained in such report from  
13      being used for purposes other than to enforce or pur-  
14      sue remedies under this section;

15              “(11) if it provides facilities or services for tele-  
16      communication, transmission, billing and collection,  
17      or physical collocation to any electronic publisher, in-  
18      cluding a separated affiliate, for use with or in con-  
19      nection with the provision of electronic publishing  
20      that is disseminated by means of such Bell operating  
21      company’s or any of its affiliates’ basic telephone  
22      service, provide to all other electronic publishers the  
23      same type of facilities and services on request, on the  
24      same terms and conditions or as required by the  
25      Commission or a State, and unbundled and individ-

1       ually tariffed to the smallest element that is tech-  
2       nically feasible and economically reasonable to pro-  
3       vide;

4               “(12) provide network access and interconnec-  
5       tions for basic telephone service to electronic publish-  
6       ers at any technically feasible and economically rea-  
7       sonable point within the Bell operating company’s  
8       network and at just and reasonable rates that are  
9       tariffed (so long as rates for such services are subject  
10      to regulation) and that are not higher on a per-unit  
11      basis than those charged for such services to any other  
12      electronic publisher or any separated affiliate engaged  
13      in electronic publishing;

14              “(13) if prices for network access and inter-  
15      connection for basic telephone service are no longer  
16      subject to regulation, provide electronic publishers  
17      such services on the same terms and conditions as a  
18      separated affiliate receives such services;

19              “(14) if any basic telephone service used by elec-  
20      tronic publishers ceases to require a tariff, provide  
21      electronic publishers with such service on the same  
22      terms and conditions as a separated affiliate receives  
23      such service;



1           “(15) provide reasonable advance notification at  
2           the same time and on the same terms to all affected  
3           electronic publishers of—

4                   “(A) information necessary for the trans-  
5                   mission or routing of information by an inter-  
6                   connected electronic publisher;

7                   “(B) information necessary to ensure the  
8                   interoperability of an electronic publisher and  
9                   the Bell operating company’s networks; and

10                   “(C) information concerning changes in  
11                   basic telephone service network design and tech-  
12                   nical standards which may affect the provision  
13                   of electronic publishing;

14                   “(16) not directly or indirectly provide anything  
15                   of monetary value to a separated affiliate unless in  
16                   exchange for consideration at least equal to the great-  
17                   er of its net book cost or fair market value, except the  
18                   investment by an affiliate of dividends or profits de-  
19                   rived from a Bell operating company;

20                   “(17) not discriminate in the presentation or  
21                   provision of any gateway for electronic publishing  
22                   services or any electronic directory of information  
23                   services, which is provided over such Bell operating  
24                   company’s basic telephone service;

1           “(18) have no directors, officers, or employees in  
2       common with a separated affiliate;

3           “(19) not own any property in common with a  
4       separated affiliate;

5           “(20) not perform hiring or training of person-  
6       nel on behalf of a separated affiliate;

7           “(21) not perform the purchasing, installation,  
8       or maintenance of equipment on behalf of its sepa-  
9       rated affiliate, except for telephone service that it pro-  
10      vides under tariff or contract subject to the provisions  
11      of this section; and

12          “(22) not perform research and development on  
13      behalf of its separated affiliate.

14          “(d) CUSTOMER PROPRIETARY NETWORK INFORMA-  
15      TION.—A Bell operating company or any affiliate shall not  
16      provide to any electronic publisher, including a separated  
17      affiliate or electronic publishing joint venture, customer  
18      proprietary network information for use with or in connec-  
19      tion with the provision of electronic publishing that is dis-  
20      seminated by means of such Bell operating company’s or  
21      any of its affiliates’ basic telephone service that is not made  
22      available by the Bell operating company or affiliate to all  
23      electronic publishers on the same terms and conditions.

24          “(e) COMPLIANCE WITH SAFEGUARDS.—A Bell operat-  
25      ing company, affiliate, or its separated affiliate is prohib-

1 *ited from acting in concert with another Bell operating*  
 2 *company or any entity in order to knowingly and willfully*  
 3 *violate or evade the requirements of this section.*

4       “(f) *TELEPHONE OPERATING COMPANY DIVIDENDS.—*  
 5 *Nothing in this section shall prohibit an affiliate from in-*  
 6 *vesting dividends derived from a Bell operating company*  
 7 *in its separated affiliate and subsections (i) and (j) of this*  
 8 *section shall not apply to any such investment.*

9       “(g) *JOINT MARKETING.—Except as provided in sub-*  
 10 *section (h), a Bell operating company shall not carry out*  
 11 *any promotion, marketing, sales, or advertising for or in*  
 12 *conjunction with—*

13               “(1) *a separated affiliate; or*

14               “(2) *an affiliate that is related to the provision*  
 15 *of electronic publishing.*

16       “(h) *PERMISSIBLE JOINT ACTIVITIES.—*

17               “(1) *JOINT TELEMARKETING.—A Bell operating*  
 18 *company may provide inbound telemarketing or refer-*  
 19 *ral services related to the provision of electronic pub-*  
 20 *lishing for a separated affiliate, electronic publishing*  
 21 *joint venture, affiliate, or unaffiliated electronic pub-*  
 22 *lisher, but if such services are provided to a separated*  
 23 *affiliate, electronic publishing joint venture, or affili-*  
 24 *ate, such services shall be made available to all elec-*  
 25 *tronic publishers on request, on nondiscriminatory*

1        *terms, at compensatory prices, and subject to regula-*  
2        *tions of the Commission to ensure that the Bell oper-*  
3        *ating company's method of providing telemarketing*  
4        *or referral and its price structure do not competi-*  
5        *tively disadvantage any electronic publishers regard-*  
6        *less of size, including those which do not use the Bell*  
7        *operating company's telemarketing services.*

8                *“(2) TEAMING ARRANGEMENTS.—A Bell operat-*  
9        *ing company may engage in nondiscriminatory*  
10       *teaming or business arrangements to engage in elec-*  
11       *tronic publishing with any separated affiliate or with*  
12       *any other electronic publisher provided that the Bell*  
13       *operating company only provides facilities, services,*  
14       *and basic telephone service information as authorized*  
15       *by this section and provided that the Bell operating*  
16       *company does not own such teaming or business ar-*  
17       *rangement.*

18                *“(3) ELECTRONIC PUBLISHING JOINT VEN-*  
19       *TURES.—A Bell operating company or affiliate may*  
20       *participate on a nonexclusive basis in electronic pub-*  
21       *lishing joint ventures with entities that are not any*  
22       *Bell operating company, affiliate, or separated affili-*  
23       *ate to provide electronic publishing services, only if*  
24       *the Bell operating company or affiliate has not more*  
25       *than a 50 percent direct or indirect equity interest*

1        *(or the equivalent thereof) or the right to more than*  
2        *50 percent of the gross revenues under a revenue shar-*  
3        *ing or royalty agreement in any electronic publishing*  
4        *joint venture. Officers and employees of a Bell operat-*  
5        *ing company or affiliate participating in an elec-*  
6        *tronic publishing joint venture may not have more*  
7        *than 50 percent of the voting control over the elec-*  
8        *tronic publishing joint venture. In the case of joint*  
9        *ventures with small local electronic publishers, the*  
10       *Commission for good cause shown may authorize the*  
11       *Bell operating company or affiliate to have a larger*  
12       *equity interest, revenue share, or voting control, but*  
13       *not to exceed 80 percent. A Bell operating company*  
14       *participating in an electronic publishing joint ven-*  
15       *ture may provide promotion, marketing, sales, or ad-*  
16       *vertising personnel and services to such joint venture.*

17       *“(i) TRANSACTIONS RELATED TO THE PROVISION OF*  
18       *ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OPER-*  
19       *ATING COMPANY AND ANY AFFILIATE.—*

20                *“(1) Any provision of facilities, services, or basic*  
21        *telephone service information or any transfer of as-*  
22        *sets, personnel, or anything of commercial or competi-*  
23        *tive value from a Bell operating company to any af-*  
24        *iliate related to the provision of electronic publishing*  
25        *shall be—*

1           “(A) recorded in the books and records of  
2           each entity;

3           “(B) auditable in accordance with generally  
4           accepted accounting principles; and

5           “(C) pursuant to written contracts or tariffs  
6           filed with the Commission or a State and made  
7           publicly available.

8           “(2) Any transfer of assets directly related to the  
9           provision of electronic publishing from a Bell operat-  
10          ing company to an affiliate shall be valued at the  
11          greater of net book cost or fair market value. Any  
12          transfer of assets related to the provision of electronic  
13          publishing from an affiliate to the Bell operating  
14          company shall be valued at the lesser of net book cost  
15          or fair market value.

16          “(3) A Bell operating company shall not provide  
17          an affiliate any facilities, services, or basic telephone  
18          service information related to the provision of elec-  
19          tronic publishing, which such affiliate then directly or  
20          indirectly provides to a separated affiliate, and which  
21          is not made available to unaffiliated companies on  
22          the same terms and conditions.

23          “(j) TRANSACTIONS RELATED TO THE PROVISION OF  
24          ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND A  
25          SEPARATED AFFILIATE.—

1           “(1) Any facilities, services, or basic telephone  
2           service information provided or any assets, personnel,  
3           or anything of commercial or competitive value trans-  
4           ferred, from a Bell operating company to any affiliate  
5           as described in subsection (i) and then provided or  
6           transferred to a separated affiliate shall be—

7                   “(A) recorded in the books and records of  
8                   each entity;

9                   “(B) auditable in accordance with generally  
10                  accepted accounting principles; and

11                  “(C) pursuant to written contracts or tariffs  
12                  filed with the Commission or a State and made  
13                  publicly available.

14           “(2) Any transfer of assets directly related to the  
15           provision of electronic publishing from a Bell operat-  
16           ing company to any affiliate as described in sub-  
17           section (i) and then transferred to a separated affili-  
18           ate shall be valued at the greater of net book cost or  
19           fair market value. Any transfer of assets related to the  
20           provision of electronic publishing from a separated af-  
21           filiate to any affiliate and then transferred to the Bell  
22           operating company as described in subsection (i) shall  
23           be valued at the lesser of net book cost or fair market  
24           value.

1           “(3) *An affiliate shall not provide a separated*  
2           *affiliate any facilities, services, or basic telephone*  
3           *service information related to the provision of elec-*  
4           *tronic publishing, which were provided to such affili-*  
5           *ate directly or indirectly by a Bell operating com-*  
6           *pany, and which is not made available to unaffiliated*  
7           *companies on the same terms and conditions.*

8           “(k) *OTHER ELECTRONIC PUBLISHERS.—Except as*  
9           *provided in subsection (h)(3):*

10           “(1) *A Bell operating company shall not have*  
11           *any officers, employees, property, or facilities in com-*  
12           *mon with any entity whose principal business is pub-*  
13           *lishing of which a part is electronic publishing.*

14           “(2) *No officer or employee of a Bell operating*  
15           *company shall serve as a director of any entity whose*  
16           *principal business is publishing of which a part is*  
17           *electronic publishing.*

18           “(3) *For the purposes of paragraphs (1) and (2),*  
19           *a Bell operating company or an affiliate that owns*  
20           *an electronic publishing joint venture shall not be*  
21           *deemed to be engaged in the electronic publishing*  
22           *business solely because of such ownership.*

23           “(4) *A Bell operating company shall not carry*  
24           *out—*



1           “(A) any marketing or sales for any entity  
2           that engages in electronic publishing; or

3           “(B) any hiring of personnel, purchasing,  
4           or production, for any entity that engages in  
5           electronic publishing.

6           “(5) A Bell operating company shall not provide  
7           any facilities, services, or basic telephone service in-  
8           formation to any entity that engages in electronic  
9           publishing, for use with or in connection with the  
10          provision of electronic publishing that is disseminated  
11          by means of such Bell operating company’s or any of  
12          its affiliates’ basic telephone service, unless equivalent  
13          facilities, services, or information are made available  
14          on equivalent terms and conditions to all.

15          “(l) TRANSITION.—Any electronic publishing service  
16          being offered to the public by a Bell operating company  
17          or affiliate on the date of enactment of the Communications  
18          Act of 1994 shall have one year from such date of enactment  
19          to comply with the requirements of this section.

20          “(m) SUNSET.—The provisions of this section shall  
21          cease to apply to a Bell operating company or its affiliate  
22          or separated affiliate in any telephone exchange area on  
23          June 30, 2000.

24          “(n) PRIVATE RIGHT OF ACTION.—

1           “(1) Any person claiming that any act or prac-  
2       tice of any Bell operating company, affiliate, or sepa-  
3       rated affiliate constitutes a violation of this section  
4       may file a complaint with the Commission or bring  
5       suit as provided in section 207 of this Act, and such  
6       Bell operating company, affiliate, or separated affili-  
7       ate shall be liable as provided in section 206 of this  
8       Act. Damages may not, however, be awarded for a  
9       violation that is discovered by a compliance review as  
10      required by subsection (b)(8) or (c)(9) of this section  
11      and corrected within 90 days.

12           “(2) In addition to the provisions of paragraph  
13      (1), any person claiming that any act or practice of  
14      any Bell operating company, affiliate, or separated  
15      affiliate constitutes a violation of this section may  
16      make application to the Commission for an order to  
17      cease and desist such violation or may make applica-  
18      tion in any district court of the United States of com-  
19      petent jurisdiction for an order enjoining such acts or  
20      practices or for an order compelling compliance with  
21      such requirement.

22           “(o) ANTITRUST LAWS.—Nothing in this section shall  
23      be construed to modify, impair, or supersede the applicabil-  
24      ity of any of the antitrust laws.

25           “(p) DEFINITIONS.—As used in this section:

1           “(1) The term ‘affiliate’ means any entity that,  
2           directly or indirectly, owns or controls, is owned or  
3           controlled by, or is under common ownership or con-  
4           trol with, a Bell operating company. Such term shall  
5           not include a separated affiliate.

6           “(2) The term ‘basic telephone service’ means  
7           any wireline telephone exchange service, or wireline  
8           telephone exchange facility, provided by a Bell operat-  
9           ing company in a telephone exchange area, except—

10           “(A) a competitive wireline telephone ex-  
11           change service provided in a telephone exchange  
12           area where another entity provides a wireline  
13           telephone exchange service that was provided on  
14           January 1, 1984; and

15           “(B) wireless telephone exchange service  
16           provided by an affiliate that is required by the  
17           Commission to be a corporate entity separate  
18           from the Bell operating company.

19           “(3) The term ‘basic telephone service informa-  
20           tion’ means network and customer information of a  
21           Bell operating company and other information ac-  
22           quired by a Bell operating company as a result of its  
23           engaging in the provision of basic telephone service.

24           “(4) The term ‘control’ has the meaning that it  
25           has in 17 C.F.R. 240.12b-2, the regulations promul-

1     *gated by the Securities and Exchange Commission*  
2     *pursuant to the Securities Exchange Act of 1934 (15*  
3     *U.S.C. 78a et seq.) or any successor provision to such*  
4     *section.*

5             *“(5) The term ‘customer proprietary network in-*  
6     *formation’ means—*

7                     *“(A) information which—*

8                             *“(i) relates to the quantity, technical*  
9                             *configuration, type, destination, and*  
10                            *amount of use of telephone exchange service*  
11                            *or interexchange telephone service subscribed*  
12                            *to by any customer of a Bell operating com-*  
13                            *pany, and*

14                            *“(ii) is available to the Bell operating*  
15                            *company by virtue of the telephone com-*  
16                            *pany-customer relationship; and*

17                     *“(B) information contained in the bills for*  
18                     *telephone exchange service or interexchange tele-*  
19                     *phone service received by a customer of a Bell*  
20                     *operating company.*

21             *“(6)(A) The term ‘electronic publishing’ means*  
22     *the dissemination, provision, publication, or sale to*  
23     *an unaffiliated entity or person of—*

24                     *“(i) news;*

25                     *“(ii) entertainment;*

1                   “(iii) business, financial, legal, consumer,  
2                   or credit material;

3                   “(iv) editorials;

4                   “(v) columns;

5                   “(vi) sports reporting;

6                   “(vii) features;

7                   “(viii) advertising;

8                   “(ix) photos or images;

9                   “(x) archival or research material;

10                  “(xi) legal notices or public records;

11                  “(xii) scientific, educational, instructional,  
12                  technical, professional, trade, or other literary  
13                  materials; or

14                  “(xiii) other like or similar information.

15                  “(B) The term ‘electronic publishing’ does not  
16                  include the following network services:

17                       “(i) Information access as that term is de-  
18                       fined by the Modification of Final Judgment.

19                       “(ii) The transmission of information as a  
20                       common carrier.

21                       “(iii) The transmission of information as  
22                       part of a gateway to an information service that  
23                       does not involve the generation or alteration of  
24                       the content of information, including data trans-  
25                       mission, address translation, protocol conversion,

1        *billing management, introductory information*  
2        *content, and navigational systems that enable*  
3        *users to access electronic publishing services,*  
4        *which do not affect the presentation of such elec-*  
5        *tronic publishing services to users.*

6                *“(iv) Messaging and electronic mail serv-*  
7        *ices.*

8                *“(v) Level 2 gateway services as those serv-*  
9        *ices are defined by the Commission’s Second Re-*  
10       *port and Order, Recommendation to Congress*  
11       *and Second Further Notice of Proposed Rule-*  
12       *making in CC Docket No. 87-266 dated August*  
13       *14, 1992.*

14               *“(vi) Data processing services that do not*  
15       *involve the generation or alteration of the con-*  
16       *tent of information.*

17               *“(vii) Transaction processing systems that*  
18       *do not involve the generation or alteration of the*  
19       *content of information.*

20               *“(viii) Electronic billing or advertising of a*  
21       *Bell operating company’s regulated telecommuni-*  
22       *cations services.*

23               *“(ix) Language translation.*

24               *“(x) Conversion of data from one format to*  
25       *another.*

1           “(xi) The provision of information nec-  
2           essary for the management, control, or operation  
3           of a telephone company telecommunications sys-  
4           tem.

5           “(xii) The provision of directory assistance  
6           that provides names, addresses, and telephone  
7           numbers and does not include advertising.

8           “(xiii) Caller identification services.

9           “(xiv) Repair and provisioning databases  
10          for telephone company operations.

11          “(xv) Credit card and billing validation for  
12          telephone company operations.

13          “(xvi) 911-E and other emergency assist-  
14          ance databases.

15          “(xvii) Any other network service of a type  
16          that is like or similar to these network services  
17          and that does not involve the generation or alter-  
18          ation of the content of information.

19          “(xviii) Any upgrades to these network serv-  
20          ices that do not involve the generation or alter-  
21          ation of the content of information.

22          “(C) The term ‘electronic publishing’ also does  
23          not include—

24               “(i) full motion video entertainment on de-  
25               mand; and

1                   “(ii) video programming as defined in sec-  
2                   tion 602 of this Act.

3                   “(7) The term ‘electronic publishing joint ven-  
4                   ture’ means a joint venture owned by a Bell operating  
5                   company or affiliate that engages in the provision of  
6                   electronic publishing which is disseminated by means  
7                   of such Bell operating company’s or any of its affili-  
8                   ates’ basic telephone service.

9                   “(8) The term ‘entity’ means any organization,  
10                  and includes corporations, partnerships, sole propri-  
11                  etorships, associations, and joint ventures.

12                  “(9) The term ‘inbound telemarketing’ means the  
13                  marketing of property, goods, or services by telephone  
14                  to a customer or potential customer who initiated the  
15                  call.

16                  “(10) The term ‘own’ with respect to an entity  
17                  means to have a direct or indirect equity interest (or  
18                  the equivalent thereof) of more than 10 percent of an  
19                  entity, or the right to more than 10 percent of the  
20                  gross revenues of an entity under a revenue sharing  
21                  or royalty agreement.

22                  “(11) The term ‘separated affiliate’ means a cor-  
23                  poration under common ownership or control with a  
24                  Bell operating company that does not own or control  
25                  a Bell operating company and is not owned or con-



1        *trolled by a Bell operating company and that engages*  
 2        *in the provision of electronic publishing which is dis-*  
 3        *seminated by means of such Bell operating company's*  
 4        *or any of its affiliates' basic telephone service.*

5            *“(12) The term ‘Bell operating company’ means*  
 6        *the corporations subject to the Modification of Final*  
 7        *Judgment and listed in appendix A thereof, or any*  
 8        *entity owned or controlled by such corporation, or*  
 9        *any successor or assign of such corporation, but does*  
 10       *not include an electronic publishing joint venture*  
 11       *owned by such corporation or entity.”.*

12        ***Subtitle C—Information Services and***  
 13        ***Payphone Services***

14       ***SEC. 431. PROVISION OF INFORMATION SERVICES.***

15       *Title II of the Communications Act of 1934 (47 U.S.C.*  
 16       *201 et seq.) is amended by inserting after section 233 the*  
 17       *following new section:*

18       ***“SEC. 234. PROVISION OF INFORMATION SERVICES.***

19       *“(a) PROVISION OF GATEWAY SERVICES.—Unless ex-*  
 20       *pressly provided elsewhere in this Act, any Bell operating*  
 21       *company that offers a gateway service shall make such serv-*  
 22       *ice and functions available under nondiscriminatory rates,*  
 23       *terms, and conditions.*

24       *“(b) RESTRICTION ON STATE REGULATION.—Notwith-*  
 25       *standing section 2(b) of this Act, no State or local govern-*

1 *ment shall have any authority to regulate the entry of infor-*  
 2 *mation service providers or the rates charged for any infor-*  
 3 *mation service, except as provided in sections 201A, 201B,*  
 4 *201C, and 230, and in title VI.*

5 “(c) *DEFINITIONS.*—As used in this section:

6 “(1) The term ‘Bell operating company’ has the  
 7 meaning given that term under section 231.

8 “(2) The term ‘gateway service’ means an infor-  
 9 mation service that, at the request of the provider of  
 10 an electronic publishing service or other information  
 11 service, provides a subscriber with access to such elec-  
 12 tronic publishing service or other information service,  
 13 other than cable service, utilizing the following func-  
 14 tions: data transmission, address translation, billing  
 15 information, protocol conversion, and introductory  
 16 information content.”.

17 **SEC. 432. PROVISION OF PAYPHONE SERVICES AND**  
 18 **TELEMESSAGING SERVICES.**

19 *Title II of the Communications Act of 1934 (47 U.S.C.*  
 20 *201 et seq.) is amended by inserting after section 234 the*  
 21 *following new section:*

1 **“SEC. 235. PROVISION OF PAYPHONE SERVICES AND**  
 2 **TELEMESSAGING SERVICES.**

3 “(a) *NONDISCRIMINATION SAFEGUARDS.*—Any Bell  
 4 operating company that provides payphone services or  
 5 telemessaging services—

6 “(1) *shall not subsidize its payphone services or*  
 7 *telemessaging services directly or indirectly with reve-*  
 8 *nue from its telephone exchange services or its ex-*  
 9 *change access services; and*

10 “(2) *shall not prefer or discriminate in favor of*  
 11 *its payphone services or telemessaging services.*

12 “(b) *DEFINITIONS.*—As used in this section—

13 “(1) *the term ‘payphone service’ means the pro-*  
 14 *vision of telecommunications service through public or*  
 15 *semi-public pay telephones, and includes the provi-*  
 16 *sion of service to inmates in correctional institutions;*  
 17 *and*

18 “(2) *the term ‘telemessaging service’ means voice*  
 19 *mail and voice storage and retrieval services provided*  
 20 *over telephone lines, any live operator services used to*  
 21 *record, transcribe, or relay messages (other than Tele-*  
 22 *communications Relay Services), and any ancillary*  
 23 *services offered in combination with these services.*

24 “(c) *REGULATIONS.*—Within 18 months after the date  
 25 of enactment of the Communications Act of 1994, the Com-  
 26 mission shall complete a rulemaking proceeding to prescribe

1 *regulations to carry out this section. In that rulemaking*  
 2 *proceeding, the Commission shall determine whether, in*  
 3 *order to enforce the requirements of this section, it is appro-*  
 4 *priate to require the Bell operating companies to provide*  
 5 *payphone service or telemessaging service through a sepa-*  
 6 *rate subsidiary that meets the requirements of section*  
 7 *236(f).”.*

8     ***Subtitle D—InterLATA Telecommunications***  
 9                                   ***Services***

10   ***SEC. 441. INTERLATA TELECOMMUNICATIONS SERVICES.***

11         *Title II of the Communications Act of 1934 (47 U.S.C.*  
 12 *201 et seq.) is amended by inserting after section 234 the*  
 13 *following new section:*

14   ***“SEC. 236. INTERLATA TELECOMMUNICATIONS SERVICES.***

15         *“(a) AUTHORITY.—Notwithstanding any restriction or*  
 16 *obligation imposed before the date of enactment of the Com-*  
 17 *munications Act of 1994 pursuant to section II(D) of the*  
 18 *Modification of Final Judgment, a Bell operating company*  
 19 *may engage in the provision of interLATA telecommuni-*  
 20 *cations services subject to the requirements of this section*  
 21 *and any regulations prescribed thereunder. No Bell operat-*  
 22 *ing company or affiliate of a Bell operating company shall*  
 23 *engage in the provision of interLATA telecommunications*  
 24 *services, except as authorized under this section.*

1       “(b) *CURRENTLY AUTHORIZED ACTIVITIES.*—Sub-  
 2       section (a) shall not prohibit a Bell operating company  
 3       from engaging, at any time after the date of enactment of  
 4       the Communications Act of 1994, in any activity as author-  
 5       ized by an order entered by the United States District Court  
 6       for the District of Columbia pursuant to the Modification  
 7       of Final Judgment if such order was entered on or before  
 8       such date of enactment.

9       “(c) *PETITION FOR AUTHORITY FOR INTERLATA*  
 10       *TELECOMMUNICATIONS SERVICES.*—

11               “(1) *APPLICATION.*—

12                       “(A) *IN REGION.*—On or after the date of  
 13                       enactment of the Communications Act of 1994, a  
 14                       Bell operating company or affiliate may apply  
 15                       to the Attorney General and the Commission for  
 16                       authorization notwithstanding the Modification  
 17                       of Final Judgment to provide interLATA tele-  
 18                       communications service originating in any area  
 19                       where such Bell operating company is the domi-  
 20                       nant provider of wireline telephone exchange  
 21                       service. The application shall describe with par-  
 22                       ticularity the nature and scope of the activity  
 23                       and of each product market or service market,  
 24                       and each geographic market for which authoriza-  
 25                       tion is sought.

1           “(B) *OUT OF REGION.*—On or after the date  
2           of enactment of the Communications Act of 1994,  
3           a Bell operating company or affiliate may apply  
4           to the Attorney General and the Commission for  
5           authorization, notwithstanding the Modification  
6           of Final Judgment, to provide interLATA tele-  
7           communications services not described in sub-  
8           paragraph (A). The application shall describe  
9           with particularity the nature and scope of the  
10          activity and of each product market or service  
11          market, and each geographic market for which  
12          authorization is sought.

13          “(2) *DETERMINATION BY ATTORNEY GENERAL*  
14          *AND COMMISSION.*—

15               “(A) *DETERMINATION.*—Not later than 180  
16               days after receiving an application made under  
17               paragraph (1), the Attorney General and the  
18               Commission each shall issue a written deter-  
19               mination, on the record after an opportunity for  
20               a hearing, with respect to the authorization for  
21               which a Bell operating company or affiliate has  
22               applied. In making such determinations, the At-  
23               torney General and the Commission shall review  
24               the whole record.

25               “(B) *APPROVAL.*—

1           “(i) The Attorney General shall ap-  
2           prove the authorization requested in any  
3           application submitted under paragraph (1)  
4           only to the extent that the Attorney General  
5           finds that there is no substantial possibility  
6           that such company or its affiliates could use  
7           monopoly power in a telephone exchange or  
8           exchange access service market to impede  
9           competition in the interLATA telecommuni-  
10          cations services market such company or af-  
11          filiate seeks to enter. The Attorney General  
12          shall deny the remainder of the requested  
13          authorization.

14          “(ii) The Commission shall approve  
15          the requested authorization only to the ex-  
16          tent that the Commission finds that the re-  
17          quested authorization is consistent with the  
18          public interest, convenience and necessity.  
19          The Commission shall deny the remainder  
20          of the requested authorization. For applica-  
21          tions submitted under paragraph (1)(A), the  
22          Commission shall only find that the re-  
23          quested authorization is consistent with the  
24          public interest, convenience, and necessity if

1           *the requirements of clause (iii) are satisfied,*  
2           *and shall take into account—*

3                     *“(I) the extent to which granting*  
4                     *the requested authorization would bene-*  
5                     *fit consumers;*

6                     *“(II) the likely effect that grant-*  
7                     *ing the requested authorization would*  
8                     *have on the rates for, and availability*  
9                     *of, telephone exchange, interexchange,*  
10                    *and other telecommunications services;*

11                    *“(III) the availability of alter-*  
12                    *native providers of telephone exchange*  
13                    *service throughout the geographic area*  
14                    *in which the Bell operating company*  
15                    *or its affiliate seeks to provide service;*

16                    *“(IV) the extent to which there*  
17                    *exist barriers to entering the telephone*  
18                    *exchange services market, including the*  
19                    *extent to which consumers have an op-*  
20                    *portunity to select their presubscribed*  
21                    *telephone exchange service providers by*  
22                    *means of a balloting process; and*

23                    *“(V) the potential for cross-sub-*  
24                    *sidization or anticompetitive activity*  
25                    *by the Bell operating company.*



1           *For applications submitted under para-*  
2           *graph (1)(B), the Commission shall take*  
3           *into account subclauses (I), (II), and (V).*

4           *“(iii) The Commission shall approve a*  
5           *requested authorization for applications*  
6           *submitted under paragraph (1)(A) only if—*

7                   *“(I) the Commission finds that, as*  
8                   *prescribed by section 230(a), no State*  
9                   *or local statute, regulations, or other*  
10                  *State or local requirement in effect in*  
11                  *the area in which the petitioning Bell*  
12                  *operating company or affiliate seeks to*  
13                  *originate interLATA telecommuni-*  
14                  *cations, prohibits or has the effect of*  
15                  *prohibiting the ability of any entity to*  
16                  *provide interstate or intrastate tele-*  
17                  *communications services in the State*  
18                  *and local area where the Bell operating*  
19                  *company seeks to originate interLATA*  
20                  *services;*

21                  *“(II) either the Commission has*  
22                  *adopted and made effective regulations*  
23                  *to implement and enforce the require-*  
24                  *ments of section 201A, or 21 months*  
25                  *after the date of enactment of the Com-*

1            *munications Act of 1994, whichever is*  
2            *earlier; and*

3            “(III) *the Commission finds that*  
4            *the Bell operating company has fully*  
5            *implemented the requirements of sub-*  
6            *paragraphs (A) through (G) of section*  
7            *230(c)(1), and finds that, at the time*  
8            *of consideration of its application, the*  
9            *Bell operating company is in full com-*  
10           *pliance with the Commission’s regula-*  
11           *tions to implement and enforce the re-*  
12           *quirements of section 230(e) and (f),*  
13           *and any State regulations under*  
14           *230(c)(2), where the Bell operating*  
15           *company seeks to originate interLATA*  
16           *services.*

17           “(iv) *Any Bell operating company*  
18           *granted authority under paragraph (1)(A)*  
19           *shall provide intraLATA toll dialing parity*  
20           *throughout that market coincident with its*  
21           *exercise of that authority. If the Commis-*  
22           *sion finds that such a Bell operating com-*  
23           *pany has provided interLATA service au-*  
24           *thorized under this clause before its imple-*  
25           *mentation of intraLATA toll dialing parity*

1           *throughout that market, or fails to main-*  
2           *tain intraLATA toll dialing parity*  
3           *throughout that market, the Commission,*  
4           *except in cases of inadvertent interruptions*  
5           *or other events beyond the control of the Bell*  
6           *operating company, shall suspend the au-*  
7           *thority to provide interLATA service for*  
8           *that market until the Commission deter-*  
9           *mines that intraLATA toll dialing parity is*  
10          *implemented or reinstated.*

11          “(C) *DESCRIPTION.*—A determination that  
12          *approves any part of a requested authorization*  
13          *shall describe with particularity the nature and*  
14          *scope of the activity, and of each product market*  
15          *or service market, and each geographic market,*  
16          *to which approval applies.*

17          “(3) *PUBLICATION.*—Not later than 10 days  
18          *after issuing a determination under paragraph (2),*  
19          *the Attorney General and the Federal Communica-*  
20          *tions Commission each shall publish in the Federal*  
21          *Register a brief description of the determination.*

22          “(4) *AUTHORIZATION GRANTED.*—A requested  
23          *authorization is granted only to the extent that—*

24                  “(A) *both the Attorney General and the*  
25                  *Federal Communications Commission approve*

1       *the authorization under paragraph (2), unless ei-*  
2       *ther of their approvals is vacated, reversed, or re-*  
3       *manded as a result of judicial review, or*

4               *“(B) as a result of such judicial review of*  
5       *either or both determinations, both the Attorney*  
6       *General and the Federal Communications Com-*  
7       *mission approve the requested authorization.*

8       “(d) *JUDICIAL REVIEW.*—

9               “(1) *COMMENCEMENT OF ACTION.*—*Not later*  
10       *than 45 days after a determination by the Attorney*  
11       *General or the Federal Communications Commission*  
12       *is published under subsection (c)(3), the Bell operat-*  
13       *ing company or affiliate that applied to the Attorney*  
14       *General and the Federal Communications Commis-*  
15       *sion under subsection (c)(1), or any person who*  
16       *would be threatened with loss or damage as a result*  
17       *of the determination regarding such company’s engag-*  
18       *ing in the activity described in such company’s appli-*  
19       *cation, may commence an action in any United*  
20       *States Court of Appeals against the Attorney General*  
21       *or the Federal Communications Commission, as the*  
22       *case may be, for judicial review of the determination*  
23       *regarding the application.*

24               “(2) *JUDGMENT.*—

1           “(A) *The Court shall enter a judgment after*  
2           *reviewing the determination in accordance with*  
3           *section 706 of title 5 of the United States Code.*

4           “(B) *A judgment—*

5                 “(i) *affirming any part of the deter-*  
6                 *mination that approves granting all or part*  
7                 *of the requested authorization, or*

8                 “(ii) *reversing any part of the deter-*  
9                 *mination that denies all or part of the re-*  
10                *quested authorization,*

11           *shall describe with particularity the nature and*  
12           *scope of the activity, and of each product market*  
13           *or service market, and each geographic market,*  
14           *to which the affirmance or reversal applies.*

15           “(e) *ENFORCEMENT.—*

16                 “(1) *PRIVATE RIGHT OF ACTION.—Any person*  
17           *who is injured in its business or property by reason*  
18           *of a violation of this section—*

19                 “(A) *may bring a civil action in any dis-*  
20                 *trict court of the United States in the district in*  
21                 *which the defendant resides or is found or has an*  
22                 *agent, without respect to the amount in con-*  
23                 *troversy, and*

24                 “(B) *shall recover threefold the damages sus-*  
25                 *tained, and the costs of suit (including a reason-*

1        *able attorney's fee). The court may award under*  
2        *this section, pursuant to a motion by such per-*  
3        *son promptly made, simple interest on actual*  
4        *damages for the period beginning on the date of*  
5        *service of such person's pleading setting forth a*  
6        *claim under this title and ending on the date of*  
7        *judgment, or for any shorter period therein, if*  
8        *the court finds that the award of such interest*  
9        *for such period is just in the circumstances.*

10        *“(2) PRIVATE INJUNCTIVE RELIEF.—Any person*  
11        *shall be entitled to sue for and have injunctive relief,*  
12        *in any court of the United States having jurisdiction*  
13        *over the parties, against threatened loss or damage by*  
14        *a violation of this section, when and under the same*  
15        *conditions and principles as injunctive relief is avail-*  
16        *able under section 16 of the Clayton Act (15 U.S.C.*  
17        *26). In any action under this subsection in which the*  
18        *plaintiff substantially prevails, the court shall award*  
19        *the cost of suit, including a reasonable attorney's fee,*  
20        *to such plaintiff.*

21        *“(f) INTERLATA TELECOMMUNICATIONS SERVICE*  
22        *SAFEGUARDS.—*

23        *“(1) SEPARATE SUBSIDIARY.—Other than*  
24        *interLATA services authorized by an order entered by*  
25        *the United States District Court for the District of*

1 *Columbia pursuant to the Modification of Final*  
2 *Judgment before the date of the enactment of the*  
3 *Communications Act of 1994, a Bell operating com-*  
4 *pany providing interLATA services authorized under*  
5 *subsection (c) shall provide such interLATA services*  
6 *in that market only through a subsidiary that is sep-*  
7 *arate from any Bell operating company entity that*  
8 *provides regulated local telephone exchange service.*  
9 *The subsidiary required by this section need not be*  
10 *separate from affiliates required in sections 231, 233,*  
11 *and 613 of this Act or any other affiliate that does*  
12 *not provide regulated local telephone exchange service.*

13 “(2) *NONDISCRIMINATION SAFEGUARDS.—The*  
14 *Bell operating company—*

15 “(A) *shall fulfill any requests from an unaf-*  
16 *filiated entity for exchange access service within*  
17 *a period no longer than that in which it provides*  
18 *such exchange access service to itself or to its af-*  
19 *filiates;*

20 “(B) *shall fulfill any such requests with ex-*  
21 *change access service of a quality that meets or*  
22 *exceeds the quality of exchange access services*  
23 *provided by the Bell operating company or its*  
24 *affiliates to itself or its affiliate;*

1           “(C) shall provide exchange access to all  
2 carriers at rates that are not unreasonably dis-  
3 criminatory and are based on costs and any ex-  
4 plicit subsidy;

5           “(D) shall, in any transaction with the sub-  
6 sidiary required by this section, not prefer or  
7 discriminate in favor of such subsidiary;

8           “(E) shall not provide any facilities, serv-  
9 ices, or information concerning its provision of  
10 exchange access service to the subsidiary required  
11 by this section unless such facilities, services, or  
12 information are made available to other provid-  
13 ers of interLATA services in that market on the  
14 same terms and conditions;

15           “(F) shall not enter into any joint venture  
16 or partnership with the subsidiary required by  
17 this section; and

18           “(G) shall charge the subsidiary required by  
19 this section, and impute to itself or any  
20 intraLATA toll affiliate, the same rates for ac-  
21 cess to its local exchange and exchange access  
22 services that it charges other, unaffiliated, toll  
23 carriers for such services.

24           “(3) SEPARATE SUBSIDIARY SAFEGUARDS.—The  
25 separate subsidiary required by this section—



1           “(A) shall carry out its marketing and sales  
2 directly and separate from its affiliated Bell op-  
3 erating company or any affiliates of such com-  
4 pany;

5           “(B) shall maintain books, records, and ac-  
6 counts in the manner prescribed by the Commis-  
7 sion which shall be separate from the books,  
8 records, and accounts maintained by its affili-  
9 ated Bell operating company or any affiliates of  
10 such company;

11           “(C) shall charge rates to consumers, and  
12 any intraLATA toll affiliate shall charge rates to  
13 consumers, for interLATA service and  
14 intraLATA toll service that are no less than the  
15 rates the Bell operating company charges other  
16 interLATA carriers for its local exchange and ex-  
17 change access services plus the other costs to the  
18 subsidiary of providing such services;

19           “(D) shall be permitted to use interLATA  
20 facilities and services provided by its affiliated  
21 Bell operating company, so long as its costs are  
22 appropriately allocated and such facilities and  
23 services are provided to its subsidiaries and  
24 other carriers on nondiscriminatory rates, terms  
25 and conditions;

1           “(E) shall comply with Commission regula-  
2           tions to ensure that the economic risks associated  
3           with the provision of interLATA services by such  
4           subsidiary are not borne by customers of the  
5           company’s telephone exchange services; and

6           “(F) shall not obtain credit under any ar-  
7           rangement that would permit a creditor, upon  
8           default, to have recourse to the assets of the local  
9           exchange carrier.

10          “(4) TRIENNIAL AUDIT.—

11               “(A) GENERAL REQUIREMENT.—A Bell op-  
12           erating company that engages in interLATA  
13           services shall obtain and pay for an audit every  
14           3 years conducted by an independent auditor se-  
15           lected by, and working at the direction of, the  
16           State commission of each State in which such  
17           Bell operating company provides local exchange  
18           service, to determine whether such Bell operating  
19           company has complied with this section and the  
20           regulations promulgated under this section, and  
21           particularly whether such Bell operating com-  
22           pany has complied with the separate accounting  
23           requirements under subsection (c).

24               “(B) RESULTS SUBMITTED TO COMMISSION;  
25           STATE COMMISSIONS.—The auditor described in

1       *clause (i) shall submit the results of the audit to*  
2       *the Commission and to the State commission of*  
3       *each State in which the Bell operating company*  
4       *audited provides telephone exchange service,*  
5       *which shall make such results available for pub-*  
6       *lic inspection. Any party may submit comments*  
7       *on the final audit report.*

8               “(C) *REGULATIONS.—The audit required*  
9       *under paragraph (1) shall be conducted in ac-*  
10       *cordance with procedures established by regula-*  
11       *tion by the State commission of the State in*  
12       *which such Bell operating company provides*  
13       *local exchange service. The regulations shall in-*  
14       *clude requirements that—*

15               “(i) *each audit submitted to the Com-*  
16       *mission and to the State commission is cer-*  
17       *tified by the auditor responsible for conduct-*  
18       *ing the audit; and*

19               “(ii) *each audit shall be certified by*  
20       *the person who conducted the audit and*  
21       *shall identify with particularity any quali-*  
22       *fications or limitations on such certification*  
23       *and any other information relevant to the*  
24       *enforcement of the requirements of this*  
25       *section.*

1           “(D) *COMMISSION REVIEW.*—*The Commis-*  
2           *sion shall periodically review and analyze the*  
3           *audits submitted to it under this subsection.*

4           “(E) *ACCESS TO DOCUMENTS.*—*For pur-*  
5           *poses of conducting audits and reviews under*  
6           *this subsection—*

7                   “(i) *the independent auditor, the Com-*  
8                   *mission, and the State commission shall*  
9                   *have access to the financial accounts and*  
10                  *records of each Bell operating company and*  
11                  *of its subsidiaries necessary to verify trans-*  
12                  *actions conducted with that Bell operating*  
13                  *company that are relevant to the specific*  
14                  *activities permitted under this section and*  
15                  *that are necessary for the regulation of rates*  
16                  *for telephone exchange and exchange access;*

17                  “(ii) *the Commission and the State*  
18                  *Commission shall have access to the working*  
19                  *papers and supporting materials of any*  
20                  *auditor who performs an audit under this*  
21                  *section; and*

22                  “(iii) *the State commission shall im-*  
23                  *plement appropriate procedures to ensure*  
24                  *the protection of any proprietary informa-*  
25                  *tion submitted to it under this section.*

1           “(F) COMMISSION ACTION ON COM-  
 2           PLAINTS.—With respect to any complaint  
 3           brought under section 208 alleging a violation of  
 4           this section or the regulations implementing it,  
 5           the Commission shall issue a final order within  
 6           1 year after such complaint is filed.

7           “(g) ADDITIONAL AUTHORITY TO PROVIDE  
 8           INTERLATA SERVICES RELATING TO COMMERCIAL MO-  
 9           BILE RADIO SERVICES.—Notwithstanding any restriction  
 10          or obligation imposed pursuant to the Modification of Final  
 11          Judgment before the date of enactment of the Communica-  
 12          tions Act of 1994, the Commission shall prescribe uniform  
 13          equal access and long distance presubscription requirements  
 14          for providers of all cellular and two-way wireless services.

15          “(h) EXCEPTIONS FOR INCIDENTAL SERVICES.—

16                 “(1) Subsection (a) shall not prohibit a Bell op-  
 17          erating company at any time after the date of enact-  
 18          ment of the Communications Act of 1994 from pro-  
 19          viding interLATA telecommunications services inci-  
 20          dental to the purpose of—

21                         “(A)(i) providing audio programming,  
 22                         video programming, or other programming serv-  
 23                         ices to subscribers of such company,

24                         “(ii) providing the capability for inter-  
 25                         action by such subscribers to select or respond to

1        *such audio programming, video programming,*  
2        *or other programming services, to order, or con-*  
3        *trol transmission of the programming, polling or*  
4        *balloting, and ordering other goods or services, or*

5            *“(iii) providing to distributors audio pro-*  
6        *gramming or video programming that such com-*  
7        *pany owns, controls, or is licensed by the copy-*  
8        *right owner of such programming, or by an as-*  
9        *signee of such owner, to distribute;*

10           *“(B) providing a telecommunications serv-*  
11        *ice, using the transmission facilities of a cable*  
12        *system that is an affiliate of such company, be-*  
13        *tween LATAs within a cable system franchise*  
14        *area in which such company is not, on the date*  
15        *of the enactment of the Communications Act of*  
16        *1994, a provider of wireline telephone exchange*  
17        *service;*

18           *“(C) providing a commercial mobile service*  
19        *except where such service is a replacement for*  
20        *land line telephone exchange service for a sub-*  
21        *stantial portion of the telephone land line ex-*  
22        *change service in a State in accordance with sec-*  
23        *tion 332(c) of the Communications Act of 1934*  
24        *(47 U.S.C. 332(c)) and with the regulations pre-*  
25        *scribed by the Commission;*

1           “(D) providing a service that permits a cus-  
2           tomer that is located in one LATA to retrieve  
3           stored information from, or file information for  
4           storage in, information storage facilities of such  
5           company that are located in another LATA area,  
6           so long as the customer acts affirmatively to ini-  
7           tiate the storage or retrieval of information, ex-  
8           cept that—

9           “(i) such service shall not cover any  
10          service that establishes a direct connection  
11          between end users or any real-time voice  
12          and data transmission;

13          “(ii) such service shall not include  
14          voice, data, or facsimile distribution serv-  
15          ices in which the Bell operating company or  
16          affiliate forwards customer-supplied infor-  
17          mation to customer- or carrier-selected re-  
18          cipients;

19          “(iii) such service shall not include  
20          any service in which the Bell operating  
21          company or affiliate searches for and con-  
22          nects with the intended recipient of infor-  
23          mation, or any service in which the Bell op-  
24          erating company or affiliate automatically

1           *forwards stored voicemail or other informa-*  
2           *tion to the intended recipient; and*

3           “(iv) *customers of such service shall*  
4           *not be billed a separate charge for the*  
5           *interLATA telecommunications furnished in*  
6           *conjunction with the provision of such serv-*  
7           *ice;*

8           “(E) *providing signaling information used*  
9           *in connection with the provision of exchange or*  
10          *exchange access services to a local exchange car-*  
11          *rier that, together with any affiliated local ex-*  
12          *change carriers, has aggregate annual revenues*  
13          *of less than \$100,000,000; or*

14          “(F) *providing network control signaling*  
15          *information to, and receiving such signaling in-*  
16          *formation from, interexchange carriers at any lo-*  
17          *cation within the area in which such company*  
18          *provides exchange services or exchange access.*

19          “(2) *The provisions of paragraph (1) are in-*  
20          *tended to be narrowly construed. Nothing in this sub-*  
21          *section permits a Bell operating company or any af-*  
22          *iliate of such a company to provide interLATA tele-*  
23          *communications services not described in paragraph*  
24          *(1) without receiving the approval of the Commission*  
25          *and the Attorney General under subsection (c). The*



1       *transmission facilities used by a Bell operating com-*  
2       *pany or affiliate thereof to provide interLATA tele-*  
3       *communications under subparagraphs (C) and (D) of*  
4       *paragraph (1) shall be leased by that company from*  
5       *unaffiliated entities on terms and conditions (includ-*  
6       *ing price) no more favorable than those available to*  
7       *the competitors of that company until approval is ob-*  
8       *tained from the Commission and the Attorney Gen-*  
9       *eral under subsection (c). The interLATA services*  
10      *provided under paragraph (1)(A) are limited to those*  
11      *interLATA transmissions incidental to the provision*  
12      *by a Bell operating company or its affiliate of video,*  
13      *audio, and other programming services that the com-*  
14      *pany or its affiliate is engaged in providing to the*  
15      *public and, except as provided in paragraph*  
16      *(1)(A)(iii), does not include the interLATA trans-*  
17      *mission of audio, video, or other programming serv-*  
18      *ices provided by others.*

19           “(3)(A) *The Commission, in consultation with*  
20      *the Attorney General, shall prescribe regulations for*  
21      *the provision by a Bell operating company or any of*  
22      *its affiliates of the interLATA services authorized*  
23      *under this subsection. The regulations shall ensure*  
24      *that the provision of such service by a Bell operating*  
25      *company or its affiliate does not—*

1           “(i) permit that company to provide tele-  
2       communications services not described in para-  
3       graph (1) without receiving the approvals re-  
4       quired by subsection (c), or

5           “(ii) adversely affect telephone exchange  
6       ratepayers or competition in any telecommuni-  
7       cations services market.

8           “(B) Nothing in this paragraph shall delay the  
9       ability of a Bell operating company to provide the  
10      interLATA services described in paragraph (1) imme-  
11      diately upon enactment of the Communications Act of  
12      1994.

13          “(4) As used in this subsection:

14           “(A) The term ‘audio programming serv-  
15      ices’ means programming provided by, or gen-  
16      erally considered to be comparable to program-  
17      ming provided by, a radio broadcast station.

18           “(B) The terms ‘video programming service’  
19      and ‘other programming services’ have the same  
20      meanings as such terms have under section 602  
21      of this Act.

22          “(i) DEFINITIONS.—As used in this section:

23           “(1) The term ‘LATA’ means the local access and  
24      transport area as defined in *United States v. Western*  
25      *Electric Co.*, 569 F.Supp. 990 (United States District

1       *Court, District of Columbia) and subsequent judicial*  
 2       *orders relating thereto.*

3               “(2) The term ‘cable service’ has the meaning  
 4       *given that term under section 602.”.*

5       **SEC. 442. JURISDICTION.**

6       *Section 2(b) of the Communications Act of 1934 (47*  
 7       *U.S.C. 152) is amended by striking “section 332” and in-*  
 8       *serting in lieu thereof “sections 229, 230, 234, 235, 237,*  
 9       *and 332”.*

10       **TITLE V—REGULATORY PARITY AMONG**  
 11       **PROVIDERS OF CABLE SERVICE**

12       **SEC. 501. PROVISION OF CABLE SERVICE BY LOCAL EX-**  
 13               **CHANGE CARRIERS AND PROVISION OF TELE-**  
 14               **COMMUNICATIONS SERVICES BY CABLE OP-**  
 15               **ERATORS.**

16       *Section 613(b) of the Communications Act of 1934 (47*  
 17       *U.S.C. 533(b)) is amended to read as follows:*

18               “(b)(1) VIDEO PROGRAMMING AND CABLE SERV-  
 19       *ICES.—*

20               “(A) TELECOMMUNICATIONS CARRIER OR AFFILI-  
 21       *ATE.—To the extent that any telecommunications car-*  
 22       *rier or its affiliate provides video programming to*  
 23       *subscribers through a common carrier video platform,*  
 24       *neither the telecommunications carrier, its affiliate,*  
 25       *nor any video programming provider making use of*

1     *such platform shall be deemed to be a cable operator*  
2     *providing cable service. To the extent that any tele-*  
3     *communications carrier or its affiliate provides video*  
4     *programming directly to subscribers through a cable*  
5     *system, the carrier or its affiliate, as the case may be,*  
6     *shall be deemed to be a cable operator providing cable*  
7     *service.*

8             “(B) LOCAL EXCHANGE CARRIER OR AFFILI-  
9     ATE.—A local exchange carrier or its affiliate may  
10    provide video programming directly to subscribers  
11    through a cable system in the local exchange carrier’s  
12    telephone service area, or through a common carrier  
13    video platform in the local exchange carrier’s tele-  
14    phone service area, only if—

15            “(i) the Commission finds that, as pre-  
16    scribed by section 230(a) and except as provided  
17    in section 230(k), no State or local statute, regu-  
18    lations, or other State or local requirement in ef-  
19    fect in such local exchange carrier’s telephone  
20    service area prohibits or has the effect of prohib-  
21    iting the ability of any entity to provide inter-  
22    state or intrastate telecommunications services in  
23    such telephone service area where the local ex-  
24    change carrier seeks to provide video program-  
25    ming;

1           “(ii) either the Commission has adopted  
2           and made effective regulations to implement and  
3           enforce the requirements of section 201A, or 21  
4           months have elapsed since the date of enactment  
5           of the Communications Act of 1994, whichever is  
6           earlier; and

7           “(iii) the Commission finds that the local  
8           exchange carrier has, within the telephone service  
9           area in which such carrier seeks to provide video  
10          programming directly to subscribers, fully imple-  
11          mented the applicable requirements of subpara-  
12          graphs (A) through (G) of section 230(c)(1), and  
13          finds that the local exchange carrier is in full  
14          compliance with the Commission’s regulations to  
15          implement and enforce the requirements of sub-  
16          sections (e) and (f) of section 230, and any State  
17          regulations under section 230(c)(2).

18          “(C) *EXCEPTION.*—Notwithstanding subpara-  
19          graph (B), a local exchange carrier may provide video  
20          programming directly to subscribers in its telephone  
21          service area if—

22               “(i) the Commission determines that—

23                   “(I) the State in which the carrier  
24                   seeks to provide video programming has im-  
25                   plemented laws and regulations that are

1           *substantially similar to and not inconsis-*  
2           *ent with the requirements of section*  
3           *230(c)(1); and*

4           *“(II) the carrier is in compliance with*  
5           *such State laws and regulations in such*  
6           *telephone service area; or*

7           *“(ii)(I) there is no enforceable statutory*  
8           *prohibition against such carrier providing video*  
9           *programming directly to subscribers in its tele-*  
10          *phone service area on the date of enactment of*  
11          *the Communications Act of 1994, and (II) no ju-*  
12          *dicial proceeding reinstates the enforceability of*  
13          *such statutory prohibition prior to the date such*  
14          *local exchange carrier must comply with the reg-*  
15          *ulations to implement subsections (c), (e), and*  
16          *(f) of section 230.*

17          *Any common carrier permitted to provide video pro-*  
18          *gramming under this subparagraph shall not be ex-*  
19          *empt from the requirements of section 230 after the*  
20          *effective date of such regulations in final form. The*  
21          *Commission shall revoke the authority granted under*  
22          *this paragraph to the extent that a carrier fails to*  
23          *comply with the regulations required by sections*  
24          *230(c), (e), or (f), except in cases of inadvertent inter-*  
25          *ruptions or other events beyond the control of such*

1     *local exchange carrier. The Commission determina-*  
2     *tion required in clause (i) shall be completed within*  
3     *60 days of submission to the Commission by a local*  
4     *exchange carrier of an application for such a deter-*  
5     *mination, or, if the determination is not completed*  
6     *during that period, the determination shall be deemed*  
7     *to have been completed and to be that the carrier is*  
8     *in compliance with the State laws and regulations in*  
9     *the carrier's telephone service area referred to in that*  
10    *clause.*

11           “(D) *SEPARATE SUBSIDIARY REQUIRED.*—Any  
12    *local exchange carrier providing video programming*  
13    *directly to subscribers through a cable system, or*  
14    *through a common carrier video platform, shall do so*  
15    *only through a separate subsidiary. In providing such*  
16    *programming—*

17           “(i) *the carrier may not provide any com-*  
18    *mon carrier facilities, services, or information to*  
19    *that cable subsidiary unless such facilities, serv-*  
20    *ices, or information are made available to others*  
21    *on the same terms and conditions;*

22           “(ii) *the carrier may not grant any pref-*  
23    *erence to, or discriminate in favor of, that cable*  
24    *subsidiary; and*

1           “(iii) the carrier may not subsidize directly  
2           or indirectly that cable subsidiary with revenue  
3           from its telephone exchange or exchange access  
4           services.

5           “(E) EXEMPTION BY COMMISSION.—Upon a  
6           finding by the Commission that the requirement of a  
7           separate subsidiary under the preceding subpara-  
8           graph is no longer necessary to protect consumers,  
9           competition, or the public interest, the Commission  
10          shall exempt a local exchange carrier from that re-  
11          quirement.

12          “(2) PROVISION OF TELECOMMUNICATIONS SERVICES  
13 BY CABLE OPERATORS.—

14           “(A) SAFEGUARDS.—A cable operator may not  
15           provide telecommunications services in its cable fran-  
16           chise area unless such telecommunications services are  
17           provided through a separate telecommunications sub-  
18           sidiary. A cable operator or its affiliate may not sub-  
19           sidize its telecommunications services directly or indi-  
20           rectly with revenue from its cable services.

21           “(B) EXEMPTION BY COMMISSION.—Upon a  
22           finding by the Commission that imposing the require-  
23           ment of a separate subsidiary on a cable operator is  
24           no longer necessary for the protection of consumers,  
25           competition, or the public interest, the Commission



1       *shall exempt that cable operator from that require-*  
2       *ment.*

3       “(3) *SUBSECTION NOT TO APPLY IN CERTAIN CIR-*  
4       *CUMSTANCES.—This subsection shall not apply to any local*  
5       *exchange carrier or cable operator to the extent such carrier*  
6       *or operator provides telephone exchange service or cable*  
7       *service, respectively, in any rural area.*

8       “(4) *WAIVER BY COMMISSION.—In those areas where*  
9       *the provision of video programming directly to subscribers*  
10       *through a cable system demonstrably could not exist except*  
11       *through a cable system owned by, operated by, controlled*  
12       *by, or affiliated with the local exchange carrier involved,*  
13       *or upon other showing of good cause, the Commission may,*  
14       *on petition for waiver, waive the applicability of paragraph*  
15       *(1) of this subsection. Any such waiver shall be made in*  
16       *accordance with section 63.56 of title 47, Code of Federal*  
17       *Regulations (as in effect on September 20, 1984) and shall*  
18       *be granted by the Commission upon a finding that the issu-*  
19       *ance of such waiver is justified by the particular cir-*  
20       *cumstances demonstrated by the petitioner, taking into ac-*  
21       *count the policy of this subsection.*

22       “(5) *ACQUISITIONS; JOINT VENTURES; PARTNER-*  
23       *SHIPS; JOINT USE OF FACILITIES.—*

24               “(A) *LOCAL EXCHANGE CARRIERS.—No local ex-*  
25       *change carrier or any affiliate of such carrier owned*

1       *by, operated by, controlled by, or under common con-*  
2       *trol with such carrier may purchase or otherwise ac-*  
3       *quire more than a 10 percent financial interest, or*  
4       *any management interest, in any cable operator pro-*  
5       *viding cable service within the local exchange carrier's*  
6       *telephone service area.*

7               “(B) *CABLE OPERATORS.*—No cable operator or  
8       *affiliate of a cable operator that is owned by, operated*  
9       *by, controlled by, or under common ownership with*  
10       *such cable operator may purchase or otherwise ac-*  
11       *quire, directly or indirectly, more than a 10 percent*  
12       *financial interest, or any management interest, in*  
13       *any local exchange carrier providing telephone ex-*  
14       *change service within such cable operator's franchise*  
15       *area.*

16               “(C) *JOINT VENTURE.*—A local exchange carrier  
17       *and a cable operator whose telephone service area and*  
18       *cable franchise area, respectively, are in the same*  
19       *market may not enter into any joint venture or part-*  
20       *nership to provide video programming directly to*  
21       *subscribers or to provide telecommunications services*  
22       *within such market.*

23               “(D) *EXCEPTION.*—Notwithstanding subpara-  
24       *graphs (A), (B), and (C) of this paragraph, a local*  
25       *exchange carrier (with respect to a cable system lo-*

1        *cated in its telephone service area) and a cable opera-*  
 2        *tor (with respect to the facilities of a local exchange*  
 3        *carrier used to provide telephone exchange service in*  
 4        *its cable franchise area) may obtain a controlling in-*  
 5        *terest in, management interest in, or enter into a*  
 6        *joint venture or partnership with such system or fa-*  
 7        *cilities to the extent that such system or facilities do*  
 8        *not serve—*

9                *“(i) any incorporated or unincorporated*  
 10              *place with more than 50,000 inhabitants; or*

11              *“(ii) any territory, incorporated or unin-*  
 12              *corporated, included in an urbanized area, as*  
 13              *defined by the Bureau of the Census.*

14              *“(E) WAIVER.—The Commission may waive the*  
 15              *restrictions of subparagraph (A), (B), or (C) only*  
 16              *if—*

17              *“(i) the petitioning local exchange carrier’s*  
 18              *telephone service area or cable operator’s cable*  
 19              *franchise area does not include either—*

20              *“(I) any incorporated or unincor-*  
 21              *porated place of 100,000 inhabitants or*  
 22              *more, or any part thereof; or*

23              *“(II) any territory, incorporated or*  
 24              *unincorporated, included in an urbanized*  
 25              *area; and*

1           “(ii) the Commission determines that—

2                   “(I) because of the nature of the market  
3           served by the affected cable system or facili-  
4           ties used to provide telephone exchange serv-  
5           ice—

6                   “(aa) the incumbent cable opera-  
7           tor or local exchange carrier would be  
8           subjected to undue economic distress by  
9           the enforcement of such provisions; or

10                  “(bb) the system or facilities  
11           would not be economically viable if  
12           such provisions were enforced; and

13                  “(II) the local franchising authority  
14           (in the case of the purchase or acquisition  
15           of a cable operator, or a joint venture to  
16           provide cable service) or the State commis-  
17           sion (in the case of the acquisition of a local  
18           exchange carrier, or a joint venture to pro-  
19           vide telephone exchange service) approves of  
20           such a waiver.

21                  “(F) *JOINT USE*.—Notwithstanding subpara-  
22           graphs (A), (B), and (C), a telecommunications car-  
23           rier may obtain within such carrier’s telephone serv-  
24           ice area, with the concurrence of the cable operator on  
25           the rates, terms, and conditions, the use of that por-

1     *tion of the transmission facilities of such a cable sys-*  
 2     *tem extending from the last multiuser terminal to the*  
 3     *premises of the end user in excess of the capacity that*  
 4     *the cable operator uses to provide its own cable serv-*  
 5     *ices. A cable operator that provides access to such por-*  
 6     *tion of its transmission facilities to one telecommuni-*  
 7     *cations carrier shall provide nondiscriminatory access*  
 8     *to such portion of its transmission facilities to any*  
 9     *other telecommunications carrier requesting such ac-*  
 10    *cess.*

11    “(6) *DEFINITIONS.*—As used in this subsection:

12        “(A) *The term ‘affiliate’ means any organization*  
 13        *or entity that, directly or indirectly, owns or controls,*  
 14        *or is controlled by, or is under common ownership or*  
 15        *control with a local exchange carrier or a cable opera-*  
 16        *tor.*

17        “(B) *The terms ‘own’, ‘owned’, and ‘ownership’*  
 18        *mean a direct or indirect equity interest (or the*  
 19        *equivalent thereof) of more than 10 percent of an or-*  
 20        *ganization or entity, or the right to more than 10*  
 21        *percent of the gross revenues of an organization or en-*  
 22        *tity under a revenue sharing or royalty agreement, or*  
 23        *any substantial management or financial interest.*

24        “(C) *The term ‘rural area’ means a geographic*  
 25        *area that does not include either—*

1           “(i) any incorporated or unincorporated  
2           place of 10,000 inhabitants or more, or any part  
3           thereof; or

4           “(ii) any territory, incorporated or unin-  
5           corporated, included in an urbanized area as de-  
6           fined by the Bureau of the Census.”.

7   **SEC. 502. COMMON CARRIER VIDEO PLATFORM.**

8           (a) *DEFINITION.*—Section 602 of the Communications  
9   Act of 1934 (47 U.S.C. 522) is amended—

10           (1) by redesignating paragraphs (8) through (19)  
11           as (9) through (20), respectively, and

12           (2) by inserting after paragraph (7) the follow-  
13           ing:

14           “(8) the term ‘common carrier video platform’  
15           means a telecommunications service coupled with a  
16           common carrier video gateway by which consumers  
17           can access any or all video program providers making  
18           use of the platform and to which such video program  
19           providers can obtain access on a common carriage  
20           basis;”.

21           (b) *CARRIAGE REQUIREMENTS.*—Any provision that  
22           applies to a cable operator under section 325, 614, or 615  
23           of the Communications Act of 1934 applies to a tele-  
24           communications carrier or the affiliate of a telecommuni-  
25           cations carrier if it establishes a common carrier video plat-

1 *form. The Commission shall prescribe regulations applica-*  
2 *ble to providers of common carrier video platforms to ensure*  
3 *that commercial broadcast stations have an opportunity to*  
4 *choose between mandatory carriage and reimbursement for*  
5 *retransmission of the signal of such stations.*

6 (c) *CABLE SERVICE.*—Section 602(6) of the Commu-  
7 *nications Act of 1934 (47 U.S.C. 522(6)) is amended—*

8 (1) *by striking the semicolon at the end of sub-*  
9 *paragraph (B) and inserting a comma, and*

10 (2) *by inserting after subparagraph (B) the fol-*  
11 *lowing: “but such term does not include the provision*  
12 *of video programming to subscribers through a com-*  
13 *mon carrier video platform;”.*

14 (d) *EXCEPTION FROM FACILITY DEFINITION.*—Sub-  
15 *division (C) of section 602(7) of the Communications Act*  
16 *of 1934 (47 U.S.C. 522(7)) is amended to read as follows:*  
17 *“(C) a facility of a common carrier which is subject to the*  
18 *provisions of title II of this Act, except that such facility*  
19 *shall be considered a cable system (other than for purposes*  
20 *of section 621(c)) to the extent that such facility is used*  
21 *in the transmission of video programming directly to sub-*  
22 *scribers and such common carrier has not made access to*  
23 *a video gateway associated with such facility available to*  
24 *all video program providers on a nondiscriminatory basis;*  
25 *or”.*

1 **SEC. 503. JURISDICTION OF FRANCHISING AUTHORITY.**

2 (a) *TELECOMMUNICATIONS SERVICES.*—Section 621(b)  
3 of the Communications Act of 1934 (47 U.S.C. 541(b)) is  
4 amended by adding at the end thereof the following new  
5 paragraph:

6 “(3)(A) To the extent that a cable operator or af-  
7 filiate thereof is engaged in the provision of tele-  
8 communications services—

9 “(i) such cable operator or affiliate shall not  
10 be required to obtain a franchise under this title;  
11 and

12 “(ii) the provisions of this title shall not  
13 apply to such cable operator or affiliate.

14 “(B) A franchising authority may not order a  
15 cable operator or affiliate thereof to discontinue the  
16 provision of a telecommunications service.

17 “(C) A franchising authority may not require a  
18 cable operator to provide any telecommunications  
19 service or facilities as a condition of the initial grant  
20 of a franchise or a franchise renewal.

21 “(D) Nothing in this paragraph affects existing  
22 Federal or State authority with respect to tele-  
23 communications services. Nothing in this paragraph  
24 affects existing authority of a franchising authority  
25 with respect to equipment or services other than tele-  
26 communications services.”.



1       (b) *FRANCHISE FEES.*—Section 622(b) of the Commu-  
 2       nications Act of 1934 (47 U.S.C. 542(b)) is amended by  
 3       inserting “to provide cable services” immediately before the  
 4       period at the end of the first sentence.

5       (c) *SHOWING REQUIRED TO OBTAIN A FRANCHISE.*—  
 6       Section 621(a)(4)(C) of the Act (47 U.S.C. 541(a)(4)(C))  
 7       is amended by adding after “cable service.” the following:  
 8       “If a local exchange carrier has a certificate of public con-  
 9       venience and necessity, or other certificate of authority, to  
 10      provide local exchange service within the geographic area  
 11      for which the local exchange carrier or its video program-  
 12      ming affiliate seeks to obtain a cable franchise, the local  
 13      exchange carrier and its video programming affiliate shall  
 14      be deemed to have made adequate assurance regarding the  
 15      financial, technical or legal qualifications to provide cable  
 16      service.”.

## 17       **TITLE VI—CUSTOMER CONTROL OVER** 18       **INFORMATION**

### 19       **SEC. 601. CUSTOMER INFORMATION PROTECTION.**

20       Title II of the Communications Act of 1934 (47 U.S.C.  
 21       201 et seq.) is amended by inserting after section 236 the  
 22       following new section:

#### 23       **“SEC. 237. CUSTOMER INFORMATION PROTECTION.**

24       “(a) *CUSTOMER PROPRIETARY NETWORK INFORMA-*  
 25       *TION.*—A local exchange carrier—

1           “(1) shall not, except as required by law or upon  
2           the affirmative request of the customer to whom the  
3           information relates, or a person designated in writing  
4           by that customer—

5                   “(A) use customer proprietary network in-  
6                   formation in the identification or solicitation of  
7                   potential customers for any service or product  
8                   other than the service from which such informa-  
9                   tion is derived; or

10                   “(B) disclose such information to any affili-  
11                   ate of such local exchange carrier or any other  
12                   person that is not an employee of such carrier  
13                   except to bill or collect for any service the cus-  
14                   tomer has requested; and

15           “(2) shall, whenever such local exchange carrier  
16           provides any aggregate information based on cus-  
17           tomer proprietary network information to any per-  
18           sonnel of such local exchange carrier, or any affiliate  
19           of such local exchange carrier, that are engaged in  
20           providing any service or product other than telephone  
21           exchange service and exchange access service and serv-  
22           ices adjunct thereto, or to any other person that is not  
23           an employee or affiliate of such carrier, notify the  
24           Commission of the availability of such aggregate in-  
25           formation and shall provide such aggregate informa-

1     *tion on reasonable and nondiscriminatory terms and*  
 2     *conditions to any other provider of services or prod-*  
 3     *ucts upon reasonable request therefor.*

4     “(b) *RULES OF CONSTRUCTION.*—

5         “(1) *DISCLOSURE OF PROPRIETARY INFORMA-*  
 6     *TION UNDER COURT ORDER.*—*This section shall not*  
 7     *be construed to prohibit the disclosure of customer*  
 8     *proprietary network information as necessary to com-*  
 9     *ply with a court order authorizing the disclosure of*  
 10    *such information.*

11        “(2) *OTHER DISCLOSURES.*—*This section shall*  
 12    *not be construed to prohibit the disclosure of customer*  
 13    *proprietary network information as necessary—*

14            “(A) *to render, bill, and collect for telephone*  
 15    *exchange service or telephone toll service;*

16            “(B) *to render, bill, and collect for any*  
 17    *other telecommunications service that the cus-*  
 18    *tomers has requested;*

19            “(C) *to protect the rights or property of the*  
 20    *carrier; or*

21            “(D) *to protect users of any of those services*  
 22    *and other carriers from fraudulent, abusive, or*  
 23    *unlawful use of, or subscription to, such service.*

24        “(c) *EXEMPTION PERMITTED.*—*The Commission may,*  
 25    *by rule, exempt from the requirements of subsection (a)(2)*

1 *local exchange carriers that have fewer than 1,000,000 ag-*  
 2 *gregate nationwide lines installed if the Commission deter-*  
 3 *mines that such exemption is in the public interest or if*  
 4 *compliance with the requirements would impose an undue*  
 5 *economic burden on the carrier.*

6       “(d) *DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-*  
 7 *TION.—Notwithstanding subsections (a), (b), (c), and (e),*  
 8 *a local exchange carrier shall provide subscriber list infor-*  
 9 *mation on a timely and unbundled basis, under non-*  
 10 *discriminatory and reasonable rates, terms, and conditions,*  
 11 *to any person upon reasonable request.*

12       “(e) *CUSTOMER CONTROL.—Within one year after the*  
 13 *date of enactment of the Communications Act of 1994, the*  
 14 *Commission shall adopt rules that govern the practices of*  
 15 *telecommunication carriers that are not local exchange car-*  
 16 *riers related to the use and disclosure of information con-*  
 17 *cerning a customer’s use of telecommunications services to*  
 18 *unaffiliated parties. In implementing this subsection, the*  
 19 *Commission shall—*

20               “(1) *consider the appropriate manner in which,*  
 21 *and whether, to require that the customer be periodi-*  
 22 *cally notified about how information concerning a*  
 23 *customer’s use of telecommunications services is used*  
 24 *and disclosed by the telecommunications carrier;*

1           “(2) provide that telecommunications carriers  
2           may use and disclose information concerning a cus-  
3           tomer’s use of telecommunications services or other  
4           services provided by the telecommunication carrier  
5           where the disclosure is necessary to render, or to con-  
6           duct a legitimate business activity related to, a tele-  
7           communications service or other service or product  
8           provided by the telecommunications provider to the  
9           customer; and

10           “(3) provide the customer the opportunity to  
11           limit the disclosure of information to unaffiliated per-  
12           sons where such disclosure is not permitted under this  
13           section.

14           “(f) *AUTOMATIC NUMBER IDENTIFICATION SERV-*  
15 *ICES.*—

16           “(1) *CONTRACT OR TARIFF REQUIREMENTS.*—  
17           Any telecommunications carrier or affiliate of a car-  
18           rier providing automatic number identification serv-  
19           ices to any person shall provide such services under  
20           a contract or tariff containing telephone subscriber  
21           information requirements that comply with this sub-  
22           section. Such requirements shall—

23                   “(A) permit such person to use the telephone  
24                   number and billing information provided pursu-  
25                   ant to the automatic number identification serv-

1       ice for billing and collection, routing, screening,  
2       and completion of the originating telephone sub-  
3       scriber's call or transaction, or for services di-  
4       rectly related to the originating telephone sub-  
5       scriber's call or transaction;

6               “(B) prohibit such person from reusing or  
7       disclosing the telephone number or billing infor-  
8       mation provided pursuant to the automatic  
9       number identification service without first (i)  
10      notifying the originating telephone subscriber  
11      and (ii) extending to such subscriber the option  
12      to limit or prohibit such reuse or disclosure; and

13              “(C) prohibit such person from disclosing,  
14      except as permitted by subparagraphs (A) and  
15      (B), any information derived from the automatic  
16      number identification service for any purpose  
17      other than—

18                      “(i) performing the services or trans-  
19                      actions that are the subject of the originat-  
20                      ing telephone subscriber's call,

21                      “(ii) ensuring network performance, se-  
22                      curity, and the effectiveness of call delivery,

23                      “(iii) compiling, using, and disclosing  
24                      aggregate information, and

1                   “(iv) *complying with a court order or*  
2                   *applicable law.*

3                   “(2) *EXCEPTION FOR ESTABLISHED CUS-*  
4                   *TOMERS.—The customer information requirements*  
5                   *imposed under paragraph (1) shall not prevent a per-*  
6                   *son to which automatic number identification services*  
7                   *are provided from using—*

8                   “(A) *the telephone number and billing in-*  
9                   *formation provided pursuant to such service, and*

10                  “(B) *any information derived from the*  
11                  *automatic number identification service, or from*  
12                  *the analysis of the characteristics of a tele-*  
13                  *communications transmission,*

14                  *to offer, to any telephone subscriber with whom such*  
15                  *person has an established customer relationship, a*  
16                  *product or service that is directly related to the prod-*  
17                  *ucts or services previously acquired by that customer*  
18                  *from such person.*

19                  “(3) *ENFORCEMENT.—The Commission may, by*  
20                  *rule or order, direct the termination of automatic*  
21                  *number identification services to any person who has*  
22                  *violated the telephone subscriber information require-*  
23                  *ments imposed under paragraph (1).*

24                  “(4) *EFFECTIVE DATE.—*

1           “(A) *Except as provided in subparagraph*  
2           *(B), the requirements of this subsection shall*  
3           *apply to any automatic number identification*  
4           *service provided more than one year after the*  
5           *date of enactment of the Communications Act of*  
6           *1994.*

7           “(B) *In the case of any automatic number*  
8           *identification service provided under a contract*  
9           *entered into, or tariff taking effect, more than 3*  
10          *months after the date of enactment of the Com-*  
11          *munications Act of 1994, the requirements of this*  
12          *subsection shall apply to any automatic number*  
13          *identification service provided pursuant to such*  
14          *contract or tariff.*

15          “(g) *DEFINITIONS.—As used in this section:*

16               “(1) *The term ‘customer proprietary network in-*  
17               *formation’ means—*

18                       “(A) *information which relates to the quan-*  
19                       *tity, technical configuration, type, destination,*  
20                       *and amount of use of telephone exchange service*  
21                       *or exchange access service subscribed to by any*  
22                       *customer of a local exchange carrier;*

23                       “(B) *information which pertains to tele-*  
24                       *phone exchange service or exchange access service*



1       *contained in bills received by a customer of a*  
2       *local exchange carrier; and*

3               “(C) *such other information concerning the*  
4       *customer as is (i) available to the local exchange*  
5       *carrier by virtue of the customer’s use of the*  
6       *services, and (ii) specified as within the defini-*  
7       *tion of such term by such rules as the Commis-*  
8       *sion may prescribe consistent with the public in-*  
9       *terest,*

10       *except that such term does not include subscriber list*  
11       *information.*

12               “(2) *The term ‘subscriber list information’*  
13       *means any information—*

14               “(A) *identifying the names of subscribers of*  
15       *a local exchange carrier and such subscribers’*  
16       *telephone numbers, addresses, or advertising clas-*  
17       *sifications, or any combination of such names,*  
18       *numbers, addresses, or classifications; and*

19               “(B) *that the carrier or an affiliate has*  
20       *published or accepted for future publication.*

21               “(3) *The term ‘aggregate information’ means col-*  
22       *lective data that relates to a group or category of*  
23       *services or customers, from which individual customer*  
24       *identities or characteristics have been removed.*

1           “(4) The term ‘automatic number identification’  
 2           means an access signaling protocol in common use by  
 3           common carriers that uses an identifying signal asso-  
 4           ciated with the use of a subscriber’s telephone to pro-  
 5           vide billing information or other information to the  
 6           local exchange carrier and to any other interconnect-  
 7           ing carriers.

## 8           **TITLE VII—MEDIA DIVERSITY**

### 9   **SEC. 701. REVIEW OF BROADCAST RULES.**

10          Within 1 year after the date of enactment of this Act,  
 11          the Federal Communications Commission (referred to else-  
 12          where in this title as the “Commission”) shall, after a notice  
 13          and comment, complete a proceeding—

14               (1) to modify or remove such national and local  
 15               ownership rules on radio and television broadcasters  
 16               as are necessary to ensure that broadcasters are able  
 17               to compete fairly with other media providers while  
 18               ensuring that the public receives information from a  
 19               diversity of media sources;

20               (2) to review the ownership restriction in section  
 21               613(a)(1) and report to Congress whether or not such  
 22               restriction continues to serve the public interest; and

23               (3) to consider the applicability of the Commis-  
 24               sion’s rules regarding network non-duplication protec-  
 25               tion, syndicated exclusivity protection, and sports

1       *programming exclusivity to programmers whose pro-*  
2       *grams are transmitted on common carrier video plat-*  
3       *forms.*

4       **SEC. 702. TELEVISION BROADCASTER PROVISION OF ADDI-**  
5       **TIONAL SERVICES.**

6       (a) *ADVANCED TELEVISION SPECTRUM SERVICES.*—If  
7       the Commission determines to issue additional licenses for  
8       advanced television services, and initially limits the eligi-  
9       bility for such licenses to persons that, as of the date of  
10      issuance, are licensed to operate a television broadcast sta-  
11      tion or hold a permit to construct such a station, or both,  
12      the Commission shall adopt regulations that allow such li-  
13      censees or permittees to make use of the advanced television  
14      spectrum for the transmission of ancillary and supple-  
15      mentary services, so long as the licensees provide without  
16      charge to the public, at least one advanced television pro-  
17      gram service as prescribed by the Commission that is in-  
18      tended for and available to the general public on the ad-  
19      vanced television spectrum. The Commission shall deter-  
20      mine the modulation technologies to be used for advanced  
21      television services.

22      (b) *COMMISSION TO COLLECT FEES.*—To the extent  
23      that a television broadcast licensee provides ancillary and  
24      supplementary services using advanced television spec-  
25      trum—

1           (1) for which payment of a subscription fee is re-  
2           quired in order to receive such services, or

3           (2) for which the licensee directly or indirectly  
4           receives compensation from a third party in return  
5           for transmitting material furnished by such third  
6           party, other than payments to broadcast stations by  
7           third parties for transmission of program material or  
8           commercial advertising,

9   the Commission may collect from each such licensee an an-  
10 nual fee to the extent the advanced television spectrum is  
11 used for such ancillary and supplementary services. In de-  
12 termining the amount of such fees, the Commission shall  
13 take into account the portion of the licensee's total spectrum  
14 which is used for such services and the amount of time such  
15 services are provided. The amount of such fees to be collected  
16 for any such service shall not, in any event, exceed an  
17 amount equivalent on an annualized basis to the amount  
18 paid by providers of a competing service on spectrum sub-  
19 ject to auction under section 309(j) of the Communications  
20 Act of 1934 (47 U.S.C. 309(j)).

21       (c) *PUBLIC INTEREST REQUIREMENT.*—Nothing in  
22 this section shall be construed as relieving a television  
23 broadcasting station from its obligation to serve the public  
24 interest, convenience, and necessity. In the Commission's re-  
25 view of any application for renewal of a broadcast license

1 *for a television station that provides ancillary and supple-*  
 2 *mentary services, the television licensee shall establish that*  
 3 *its program service which is intended for and available to*  
 4 *the general public on the advanced television spectrum is*  
 5 *in the public interest. Any violation of the Commission*  
 6 *rules applicable to ancillary and supplementary services*  
 7 *may reflect upon the licensee's qualifications for renewal*  
 8 *of its license.*

9       (d) *DEFINITION OF ADVANCED TELEVISION SERV-*  
 10 *ICES.—As used in this section, the term “advanced tele-*  
 11 *vision services” means television services provided using*  
 12 *digital or other advanced technology to enhance audio qual-*  
 13 *ity and video resolution, as further defined in the opinion,*  
 14 *report, and order of the Commission entitled “Advanced*  
 15 *Television Systems and Their Impact Upon the Existing*  
 16 *Television Broadcast Service”, MM Docket 87–268.*

17 **SEC. 703. VIDEO PROGRAMMING ACCESSIBILITY.**

18       (a) *INQUIRY REQUIRED.—Within 180 days after the*  
 19 *date of enactment of this Act, the Commission shall com-*  
 20 *plete an inquiry to ascertain the level at which video pro-*  
 21 *gramming is closed captioned. Such inquiry shall examine*  
 22 *the extent to which existing or previously published pro-*  
 23 *gramming is closed captioned, the size of the video program-*  
 24 *ming provider or programming owner providing closed*  
 25 *captioning, the size of the market served, the relative audi-*

1 *ence shares achieved, or any other related factors. The Com-*  
2 *mission shall submit to the Congress a report of the results*  
3 *of such inquiry.*

4 *(b) CONTENTS OF REGULATIONS.—Within 18 months*  
5 *after such date of enactment, the Commission shall prescribe*  
6 *regulations to ensure that—*

7 *(1) video programming first published or exhib-*  
8 *ited after the effective date of such regulations is fully*  
9 *accessible through the provision of closed captions, ex-*  
10 *cept as provided in subsection (d); and*

11 *(2) video programming providers or owners*  
12 *maximize the accessibility of video programming first*  
13 *published or exhibited prior to the effective date of*  
14 *such regulations through the provision of closed cap-*  
15 *tions, except as provided in subsection (d).*

16 *(c) IMPLEMENTING CLOSED CAPTIONING.—The regula-*  
17 *tions shall include an appropriate implementation schedule*  
18 *of deadlines for the provision of closed captioning of video*  
19 *programming.*

20 *(d) EXEMPTIONS.—Notwithstanding subsection (b)—*

21 *(1) the Commission may exempt by regulation*  
22 *programs, classes of programs, locally produced pro-*  
23 *grams, providers, classes of providers or services for*  
24 *which the Commission has determined that the provi-*  
25 *sion of closed captioning would result in an undue*

1       burden to the provider or owner of such program-  
2       ming;

3           (2) a provider of video programming or the  
4       owner of any program carried by the provider shall  
5       not be obligated to supply closed captions if such ac-  
6       tion would be inconsistent with contracts in effect on  
7       the date of enactment of this Act, except that nothing  
8       in this section shall be construed to relieve a video  
9       programming provider of its obligations to provide  
10      services otherwise required by Federal law; and

11           (3) a provider of video programming or program  
12      owner may petition the Commission for an exemption  
13      from the requirements of this section, and the Com-  
14      mission may grant such petition upon a showing that  
15      the requirements contained in this section would re-  
16      sult in an undue burden.

17      (e) *UNDUE BURDEN.*—The term “undue burden”  
18      means significant difficulty or expense. In determining  
19      whether the closed captions necessary to comply with the  
20      requirements of this paragraph would result in an undue  
21      economic burden, the factors to be considered include—

22           (1) the nature and the cost of the closed captions  
23      for the programming;

24           (2) the impact on the operation of the provider  
25      or program owner;

1           (3) *the financial resources of the provider or pro-*  
2           *gram owner; and*

3           (4) *the type of operations of the provider or pro-*  
4           *grammer owner.*

5           (f) *ADDITIONAL PROCEEDING ON VIDEO DESCRIP-*  
6           *TIONS REQUIRED.*—*Within 6 months after the date of en-*  
7           *actment of this Act, the Commission shall commence an in-*  
8           *quiry to examine the use of video descriptions on video pro-*  
9           *gramming in order to ensure the accessibility of video pro-*  
10          *gramming to persons with visual impairments, and report*  
11          *to Congress on its findings. The Commission's report shall*  
12          *assess appropriate methods and schedules for phasing video*  
13          *descriptions into the marketplace, technical and quality*  
14          *standards for video descriptions, a definition of program-*  
15          *ming for which video descriptions would apply, and other*  
16          *technical and legal issues that the Commission deems ap-*  
17          *propriate. Following the completion of such inquiry, the*  
18          *Commission may adopt regulations it deems necessary to*  
19          *promote the accessibility of video programming to persons*  
20          *with visual impairments.*

21          (g) *VIDEO DESCRIPTIONS.*—*For purposes of this sec-*  
22          *tion, "video description" means the insertion of audio nar-*  
23          *rated descriptions of a television program's key visual ele-*  
24          *ments into natural pauses between the program's dialogue.*



1 **TITLE VIII—OBSCENE, HARASSING, AND**  
 2 **WRONGFUL UTILIZATION OF TELE-**  
 3 **COMMUNICATIONS FACILITIES**

4 **SEC. 801. OBSCENE OR HARASSING USE OF TELECOMMUNI-**  
 5 **CATIONS FACILITIES UNDER THE COMMU-**  
 6 **NICATIONS ACT OF 1934.**

7 (a) *OFFENSES.*—Section 223 of the Communications  
 8 Act of 1934 (47 U.S.C. 223) is amended—

9 (1) in subsection (a)(1)—

10 (A) by striking out “telephone” in the mat-  
 11 ter above subparagraph (A) and inserting “tele-  
 12 communications device”;

13 (B) by striking out “makes any comment,  
 14 request, suggestion, or proposal” in subpara-  
 15 graph (A) and inserting “makes, transmits, or  
 16 otherwise makes available any comment, request,  
 17 suggestion, proposal, image, or other communica-  
 18 tion”;

19 (C) by striking out subparagraph (B) and  
 20 inserting the following:

21 “(B) makes a telephone call or utilizes a  
 22 telecommunications device, whether or not con-  
 23 versation or communications ensues, without dis-  
 24 closing his identity and with intent to annoy,  
 25 abuse, threaten, or harass any person at the

1       *called number or who receives the communica-*  
2       *tion;” and*

3               *(D) by striking out subparagraph (D) and*  
4       *inserting the following:*

5               *“(D) makes repeated telephone calls or re-*  
6       *peatedly initiates communication with a tele-*  
7       *communications device, during which conversa-*  
8       *tion or communication ensues, solely to harass*  
9       *any person at the called number or who receives*  
10       *the communication; or”;*

11       *(2) in subsection (a)(2), by striking “telephone*  
12       *facility” and inserting “telecommunications facility”;*

13       *(3) in subsection (b)(1)—*

14               *(A) in subparagraph (A)—*

15                   *(i) by striking “telephone” and insert-*  
16               *ing “telecommunications device”; and*

17                   *(ii) by inserting “or initiated the com-*  
18               *munication” after “placed the call”, and*

19               *(B) in subparagraph (B), by striking “tele-*  
20       *phone facility” and inserting “telecommuni-*  
21       *cations facility”; and*

22       *(4) in subsection (b)(2)—*

23               *(A) in subparagraph (A)—*

24                   *(i) by striking “by means of telephone,*  
25               *makes” and inserting “by means of tele-*

1           *phone or telecommunications device, makes,*  
2           *transmits, or makes available”; and*

3                   (ii) *by inserting “or initiated the com-*  
4           *munication” after “placed the call”; and*

5                   (B) *in subparagraph (B), by striking “tele-*  
6           *phone facility” and inserting in lieu thereof*  
7           *“telecommunications facility”.*

8           (b) *PENALTIES.—Section 223 of such Act (47 U.S.C.*  
9           *223) is amended—*

10                   (1) *by striking out “\$50,000” each place it ap-*  
11           *pears and inserting “\$100,000”; and*

12                   (2) *by striking “six months” each place it ap-*  
13           *pears and inserting “2 years”.*

14           (c) *PROHIBITION ON PROVISION OF ACCESS.—Sub-*  
15           *section (c)(1) of such section (47 U.S.C. 223(c)) is amended*  
16           *by striking “telephone” and inserting “telecommunications*  
17           *device”.*

18           (d) *CONFORMING AMENDMENT.—The section heading*  
19           *for such section is amended to read as follows:*

1 “OBSCENE OR HARASSING UTILIZATION OF TELECOMMUNI-  
2 CATIONS DEVICES AND FACILITIES IN THE DISTRICT  
3 OF COLUMBIA OR IN INTERSTATE OR FOREIGN COM-  
4 MUNICATIONS”.

5 **SEC. 802. OBSCENE PROGRAMMING ON CABLE TELEVISION.**

6 Section 639 of the Communications Act of 1934 (47  
7 U.S.C. 559) is amended by striking “\$10,000” and insert-  
8 ing “\$100,000”.

9 **SEC. 803. BROADCASTING OBSCENE LANGUAGE ON RADIO.**

10 Section 1464 of title 18, United States Code, is amend-  
11 ed by striking out “\$10,000” and inserting in lieu thereof  
12 “\$100,000”.

13 **SEC. 804. INTERCEPTION AND DISCLOSURE OF ELEC-**  
14 **TRONIC COMMUNICATIONS.**

15 Section 2511 of title 18, United States Code, is  
16 amended—

17 (1) in paragraph (1)—

18 (A) by striking “wire, oral, or electronic  
19 communication” each place it appears and in-  
20 serting “wire, oral, electronic, or digital commu-  
21 nication”, and

22 (B) in the matter designated as “(b)”, by  
23 striking “oral communication” in the matter  
24 above clause (i) and inserting “communication”;  
25 and

1           (2) in paragraph (2)(a), by striking “wire or  
 2           electronic communication service” each place it ap-  
 3           pears (other than in the second sentence) and insert-  
 4           ing “wire, electronic, or digital communication  
 5           service”.

6 **SEC. 805. ADDITIONAL PROHIBITION ON BILLING FOR**  
 7 **TOLL-FREE TELEPHONE CALLS.**

8           Section 228(c)(6) of the Communications Act of 1934  
 9           (47 U.S.C. 228(c)(6)) is amended—

10           (1) by striking “or” at the end of subparagraph  
 11           (C);

12           (2) by striking the period at the end of subpara-  
 13           graph (D) and inserting a semicolon and “or”; and

14           (3) by adding at the end thereof the following:

15                   “(E) the calling party being assessed, by  
 16                   virtue of being asked to connect or otherwise  
 17                   transfer to a pay-per-call service, a charge for  
 18                   the call.”.

19 **SEC. 806. SCRAMBLING OF CABLE CHANNELS FOR**  
 20 **NONSUBSCRIBERS.**

21           Part IV of title VI of the Communications Act of 1934  
 22           (47 U.S.C. 551 et seq.) is amended by adding at the end  
 23           the following:

1 **“SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR**  
 2 **NONSUBSCRIBERS.**

3 “(a) *REQUIREMENT.*—In providing video program-  
 4 ming unsuitable for children to any subscriber through a  
 5 cable system, a cable operator shall fully scramble or other-  
 6 wise fully block the video and audio portion of each channel  
 7 carrying such programming so that one not a subscriber  
 8 does not receive it.

9 “(b) *DEFINITION.*—As used in this section, the term  
 10 ‘scramble’ means to rearrange the content of the signal of  
 11 the programming so that the programming cannot be re-  
 12 ceived by persons unauthorized to receive the program-  
 13 ming.”.

14 **SEC. 807. CABLE OPERATOR REFUSAL TO CARRY CERTAIN**  
 15 **PROGRAMS.**

16 (a) *PUBLIC, EDUCATIONAL, AND GOVERNMENTAL*  
 17 *CHANNELS.*—Section 611(e) of the Communications Act of  
 18 1934 (47 U.S.C. 531(e)) is amended by inserting before the  
 19 period the following: “, except a cable operator may refuse  
 20 to transmit any public access program or portion of a pub-  
 21 lic access program which contains obscenity, indecency, or  
 22 nudity”.

23 (b) *CABLE CHANNELS FOR COMMERCIAL USE.*—Sec-  
 24 tion 612(c)(2) of the Communications Act of 1934 (47  
 25 U.S.C. 532(c)(2)) is amended by striking “an operator”  
 26 and inserting “a cable operator may refuse to transmit any

1 *leased access program or portion of a leased access program*  
 2 *which contains obscenity, indecency, or nudity. An opera-*  
 3 *tor''.*

4 ***TITLE IX—ADVANCED TELECOMMUNI-***  
 5 ***CATIONS NETWORK CAPABILITY***

6 ***SEC. 901. ADVANCED TELECOMMUNICATIONS NETWORK CA-***  
 7 ***PABILITY.***

8 *(a) PROMOTION OF ADVANCED TELECOMMUNICATIONS*  
 9 *NETWORK CAPABILITY.—The Commission shall promote to*  
 10 *all Americans, regardless of location or disability, the de-*  
 11 *ployment of switched, broadband, telecommunications net-*  
 12 *works capable of enabling users to originate and receive af-*  
 13 *fordable and accessible high quality voice, data, graphics,*  
 14 *and video telecommunications services. In promoting the*  
 15 *deployment of such networks, the Commission shall, to the*  
 16 *maximum extent feasible, rely on competition among tele-*  
 17 *communications providers. In the event the Commission de-*  
 18 *termines that users are not gaining reasonable and timely*  
 19 *access to switched, broadband, telecommunications network*  
 20 *capabilities, the Commission shall have the authority to*  
 21 *provide sufficient incentives such that this access is*  
 22 *achieved.*

23 *(b) RULEMAKING.—If the Commission finds in its in-*  
 24 *quiry proceedings or any other time that switched,*  
 25 *broadband, telecommunications network capabilities are*

1 *not being deployed to all Americans in a reasonable and*  
2 *timely fashion, it shall commence a rulemaking to prescribe*  
3 *regulations using incentives to promote, to the maximum*  
4 *extent technically feasible and economically reasonable, the*  
5 *availability of switched, broadband, telecommunications*  
6 *network capabilities.*

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